Volume XV.] *March, 1900.* [*Number 1.*

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POLITICAL SCIENCE QUARTERLY.

LIFE IN A SOUTHERN MILL TOWN.

THERE is not yet a cotton-mill type in the people of the South, but many different stages in the development of an operative class are represented among the individuals whom this paper attempts to describe. Because of this lack of uniformity, statistics cannot aid in the work here undertaken. It is based merely on the observation of numerous cases — the only method through which an understanding of these people can be obtained.

C—— is a town of 8000 people in the west-central section of North Carolina. Though the town is more than a hundred years old, most of the population has come since 1880. Before that it was a sleepy country town, deriving its chief importance from the presence of the county courthouse. Now many towns of twice the size could not boast an equal volume of business.

The principal industry is the manufacture and sale of cotton. Few towns in the South are so identified in the public mind with cotton manufacturing. This is not so much on account of the size of the mills as on account of their success. During the years of the panic and the depression following, when the margin on goods was narrow and the business unprofitable in many sections, the mills of C—— paid promptly either four or five per cent semi-annually. Moreover, the machinery has been kept up to the highest stage of efficiency, and large surplus funds have been accumulated. Years ago the dividends were even larger.

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Of the 8000 people of the town, about 1800 are colored and are servants, laborers, small tradesmen and artisans.[1] Of the remaining 6200, about 4800 are dependent upon the mills for support. The rest, not exceeding 1400, constitute the "down-town" element, embracing all white members of trades or professions. There is little social intercourse between the three classes.

The mills run both day and night, and produce yarns, white goods, seamless bags, towelings, plaids — in fact, all the coarser grades usually produced by cotton mills, as well as many of the finer. The buildings are either two or three stories in height, well lighted and well heated — or rather, much heated. In the upper stories, under the tin roof, the mercury on summer afternoons sometimes hovers around the 100° mark. The hours of labor are long — sixty-nine to seventy-two a week for day hands and slightly less for night workers. During the summer the operative, when his day's work is done, is content to sit in his shirt sleeves on the steps of his house, desiring only to be let alone.

Factory Dwellings. — The larger part of the employees live clustered about the mills, sometimes in houses belonging to the company, sometimes in cottages built by some speculator who has bought land cheap and desires quick returns. These houses are of wood, contain from two to eight rooms, and usually have open fireplaces, as firewood costs less than two dollars a cord. The rents are low — from twenty-five to forty cents a room a week; but, even at this rental, the building and renting of these houses is a profitable investment. It is seldom that a house shelters more than one family, unless relationship or connection of some kind makes such arrangement convenient.

On a given street or in a given district each mill house is a duplicate of its neighbor in plan, size, distance from the street and color. The paints are chosen for durability or cheapness, rather than beauty or harmony. No fences separate the lots or serve as screens for the privies. The pig-sty is sometimes

[1] In this town white and negro carpenters, masons and plumbers work together under white foremen.

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present and the cow-shed as well. In the summer there are swarms of flies. Here and there appears a home where some woman, fighting against her situation, has planted a vine, or some hollyhocks or zinnias, in the attempt to brighten the surroundings; or a row of sickly geraniums in tin cans fills a window. Some windows shine from constant scrubbing, but usually you may look through dirty glass at dirtier curtains and on interiors where people eat and sleep and work. The tired mother tries to do the work of three — cooking, washing, sewing, scrubbing. Something must go undone. Dirty children with torn clothes, but often with hair in curl-papers, play about the streets, until a shrill voice calls them to fetch water from the well at the corner or mind the ever present baby.

Such are the homes of those lately come to the mills, and of those families in which the number of wage-earners is small or in which there is inborn shiftlessness or misfortune that has prevented removal to a more desirable locality.

On other streets different conditions prevail. There live the overseers and the more skilled operatives. The houses often belong to the occupants, having been purchased through the building and loan associations. The premises are clean and show some care. Flowers are in the yard and on the porch. As in Washington Irving's Dutch families, the parlor is the particular glory of the house. A gilt clock, a cabinet organ, piled with *Gospel Hymns*, a carpet besprinkled with red and yellow figures — all are here. A china cup with "Remember Me," or "From a Friend," and some cheap vases ornament the mantel. The motto, "God Bless our Home," worked in variegated worsted on perforated cardboard, and some highly colored chromos stare at you from the walls. Beside the lamp are the immense gilt-edged family Bible, a photograph album and two or three autograph albums with their sentimental contents. A thick volume, *The Wonders of the World*, prepared to sell by some subscription-book publisher, represents literature. Possibly the "company bed," with its immense embroidered pillow shams, stands in a corner. The chairs must be arranged with mathematical exactness. The family

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room will have a rag carpet, woven from bright-colored scraps by some old woman in the country who still keeps her hand loom. In all respects this room is more habitable than the more pretentious parlor.

To such a home the weekly textile newspaper comes, possibly the town daily, and occasionally a daily from a neighboring city. The daughter of the house usually does not work in the mills, but reads the society columns of the papers, a ten-cent illustrated monthly magazine and all the trashy novels that she can get. She feels a sort of contempt for "factory folks," and spends much of her time "down town," where she observes carefully what the girls there may be wearing. For her own costume she makes something similar, accentuating, however, peculiarities of style and color. She knows by sight all the members of that band which she is pleased to call the "best people." Her highest ambition is that she may some day exchange visits with the women of that circle and also receive the men.

Her brother works in a mill, for among the young men there are few idlers. He has been born into the system and does not need to be adjusted. He tends his looms or runs his slubber, going back and forth to his work in his soiled clothes, white with lint. On Sunday his new clothes, gay necktie, brilliant scarf pin and heavy watch chain are dazzling. He has no such social ambitions as his sister, and is content to take for a drive, lasting through the whole afternoon, the girl who works beside him at the mill. From one week to another all "teams" are engaged for the Sunday afternoons.

Rural Origin of Operatives. — A part of one of these mills began operation forty-nine years ago, and now gives work to children and grand-children of the first operatives. These, however, make up an extremely small part of the mill population. The largest part has come directly from the farms and has been trained here. There is a third class — those who come from other mills; but this is only one step removed from the second class. They are all Americans, North Carolinians, and are usually truthful, sensitive and law-abiding. North Caro-

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lina has the smallest foreign population of any state in the Union, and the few foreigners do not work in the mills.

To the prejudices and peculiarities of the rural community from which they come these workers have added others that characterize the mill population. There is not yet an operative class, but such a class is forming — is setting itself apart and is being set apart by others. In the early days, when mills were usually situated on the banks of some river in the country, the farmer's daughter worked in the mill without loss of caste. In the counties of Randolph and Alamance, wives of dozens of substantial men, magistrates, county commissioners, *etc.*, worked in the mills when girls, thirty or forty years ago. Such a thing is not possible now. The families who move to the mills from the farms will at first make frequent visits to their country churches to meet their old neighbors; but, as they make acquaintances in the town, they become imbued with the idea that the hand of every one is against them, and their visits to the old homes grow infrequent. To some extent this idea that a stigma attaches to factory labor is well founded; and the fact is due, perhaps, to the loose condition of morals in some factory communities.

Motives for the Migration from Farm to Mill. — When a man is questioned as to the reason why he left his farm, nine times in ten he will say that it was to better his condition generally and to educate his children. A man whose chief money crop is three or four bales of cotton, bringing him less than a hundred dollars, who often does not handle more than two hundred dollars in a year, hears with wonder of fifty to eighty dollars, or even more, made by one family in a single month. Such a sum sounds like unlimited wealth; for he does not consider at all the value of the provisions consumed by the family on the farm. As to the children, he reasons that on the farm they work with him in the field, and that the indoor work of the mill will be easier for them. Possibly a mortgage may help to persuade him. So the farm, if he owns one, is rented to some neighbor who is not yet willing to give up the struggle, or is abandoned to the mercy of negro tenants,

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and the family comes to town to dwell in whatever house it may find vacant. The desirable houses are always occupied, for a mill family will move at an hour's notice. The children of the newcomer go into the mill, and the father may try to do so. He may succeed in making his services valuable, but usually his fingers are too clumsy to learn a new trade at forty-five. Too often, after failing at two or three tasks, he slides into the class of idlers. Meanwhile the education of the children languishes. In the country there was school fourteen weeks in the year, and some of the children attended. Here the mills run fifty-two weeks, and the time of attending school is postponed.

Sometimes the father of the migrating family has been taken away, and resources are altogether lacking. In the class from which operatives come life insurance is practically unknown. Farming seems to the widow impossible; and if she is to keep her family together, the mill seems the only refuge.

Often, again, the father grows tired of the attempt to wrest a scanty living from his poor land, through the medium of five-cent cotton, and comes with the conscious purpose of living a life of ease, through the labor of his children. He collects regularly the fortnightly wages, sometimes giving as a special favor twenty-five cents or half a dollar to a girl for whose labor he has received ten or fifteen times as much. The mill authorities may refuse to tolerate such a condition and may compel the man to undertake some work. But after an overseer has wrestled for a week with his carelessness and indolence he gets his coveted discharge. His children, however, are retained; for good operatives are not so plentiful that four or five may be readily picked up to take their places. So the father continues to play the gentleman of leisure, paying for his luxuries from what remains of his children's wages after the store account is settled. For, though employees are not compelled to trade at the company stores, when they do so, the debts are deducted from wages due. It must be said, however, that these men, though lazy, are in general scrupulously honest

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regarding store accounts. "Down town" they find ready credit for anything desired.

Church Relations. — Contrary to the generally accepted idea of these people, C—— operatives are church-goers. The churches are the places of general resort on Sunday. There the operatives see their friends; and their emotional natures, repressed by the monotony of the week, find pleasure in exercise. There are sincere Christians among them, but these, too, are seeking entertainment.

Methodists and Baptists include a large majority of the church members. No sect less emotional in tone can satisfy their demands. The Presbyterians and Lutherans maintain a precarious foothold, drawing their strength from the families lately come from the country; for the county is on the line of division between the settlements of the Scotch-Irish and those of the phlegmatic Germans. These churches are all near the factories and are attended almost exclusively by operatives. To the down-town churches the mill hands have always refused to go in any considerable numbers.

The congregations in the mill churches are large enough and quiet enough, but are ordinarily careless, inattentive and listless. Old-fashioned orthodox sermons are preached. The cardinal sins are denounced vigorously, and some habits which liberal sentiment regards with toleration or approval are condemned with equal severity. The rewards and punishments of a future life are earnestly dwelt upon, with occasionally a reference to a literal burning hell. From time to time "revivals" of the old type banish the usual stolidity of the congregations. These occasions exhibit an odd blending of old methods and new. The "mourner's bench" and the more modern invitation to shake hands as a token of conversion are both used. At one moment the quick tunes of the *Gospel Hymns* of the Moody and Sankey period fill the air; at the next is heard some melody that has figured in camp meetings for a century. Of the congregation, dozens are on their knees praying for the unsaved, and dozens more go about soliciting the young men to "come to the altar." A chorus of ejaculations arises when

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some especially hardened sinner "comes up for prayer." As the songs grow more insistent, bodies rock to and fro in unison, and electric thrills seem to run through the congregation. There is no more listlessness. The almost extinct class of "shouting Methodists" has representatives here.

The Sunday-schools are as well attended as the church services. On one seat will be found a class of young men unable to read understandingly; so the teacher talks or induces each to stumble over a verse in a chapter from the Bible. Such pupils are often painfully aware of their deficiencies and show eagerness to learn. On another seat a dozen girls, eighteen to twenty-five years old, gaze about, meeting your questions sometimes with a mere stare of astonishment, sometimes with an answer glibly repeated from the lesson leaf, often without comprehension of the meaning. The teacher may talk as simply and as forcibly as he will, and yet their eyes and minds wander away. Their minds seem not to be receptive — to be in some way calloused. This listlessness is their greatest fault. Decorum is strictly observed, and in a sort of dumb way they seem to be grateful for all proffered help.

The pastors of these churches are earnest men. They are comparatively well paid for their services, and they do work faithfully for the good of their charges. But there is little that they can do. Much of their preaching is not even heard, and there is little opportunity for pastoral work. Yet if one family receives a disproportionate share of the pastor's attention, complaint is sure to be made.

The Schools. — The same feeling which prevents the factory adults from attending the down-town churches prevents any considerable number of the children from attending the central public school. They used to be kept out to run upon the streets, if they could not squeeze past the factory rules regarding age and enter the mills. So strong was this prejudice that, of thirteen hundred children of school age belonging to the factory element, not more than a hundred and fifty attended school at all.

The owners of the principal mills, while regretting the neces-

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sity of setting apart their communities, offered to build near the mills two schoolhouses, provided that the school committee would maintain three grades in each. This has been done, and attendance is a little increased. The last records show an attendance of about two hundred and fifty mill children at the mill schools and the central school together; for all must go to the latter after they have passed the third grade. Yet scarcely one-fifth of the children attend school at any time during the year.

On account of the feeling that every one is trying to impose upon them, parents teach their children to be always on the alert for any instance of the teacher's partiality, and at the slightest evidence of neglect they are ready to withdraw. One old woman gave as her excuse for not sending her little grandson to school, that, "when his father was a little boy, he started to school and the big boys picked on him." This seemed to her an entirely satisfactory reason for allowing the child to grow up in ignorance.

The teachers declare that there is a difference between the children just come from the farms and the children sprung from two generations of factory operatives. The latter manifest a lack of receptivity, while in the former the mental faculties have been kept alive — whether by the change of scene and work, is a question for the psychologist. Hundreds of the farmer boys and girls of the state go to school and college, with great privation and self-denial, and they succeed. The factory boys and girls do not go. The largest college for men in the state, with over five hundred students, reports no factory boys; the report from the corresponding school for girls is the same. It is safe to say that not so many as a hundred boys and girls who have worked in the mills for their daily bread, or whose parents are operatives, are in any sort of boarding schools to-day. Yet the mill population of North Carolina is about 100,000.

Eating and Drinking. — It must not be understood that these people live sparingly. The contrary is true, generally speaking, though the food is not always well chosen. Fried

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pork, swimming in grease, and huge yellow soda biscuits are staple articles. Fried eggs and sausage and fried chicken are also common. Choice steaks are bought, but soup is rarely seen. Moreover, these communities are large consumers of fruits and vegetables out of season. Almost before the mill-owner feels that he can afford to have strawberries, tomatoes, peaches or pineapples, the operatives have them, though they may put the strawberries into a pie. Usually, pie of some sort is on the table every day, often for every meal.

These people are large consumers of canned goods, knowing and demanding good quality always. They will use nothing but the finest flour, though they may tinge it yellow with soda. Pickles come to the stores in barrels, and the assortment of tobacco and snuff is always large. This extravagance in food is probably induced by the revolt of the stomach against the unappetizing staples. But this extravagance and the amount spent on dress keep the people poor. Few care for the rainy day. They know that the company will make advances, if sickness comes, and so they go on.

The whiskey traffic is under the ban. The town has not a single licensed saloon. The owners of the mills compel their operatives to vote for prohibition — as a matter of self-protection, they say. Of course, there are many "blind tigers," dispensing mean corn whiskey, but it is more or less difficult to procure intoxicants, and the social feature of drinking is destroyed.

Factory Amusements. — This section need not be long, for the life is rather bare and monotonous. The church services and the meetings of the church societies are almost the only public exercises attended by the operatives. The young men and boys hang around the stores on Saturday afternoons. One of the churches has a library connected with it, and some read. The driving by the young people on Sunday has been mentioned, and those who do not drive take long walks. Evening parties are rare, except occasionally on Saturday night. The hours of work are so long that bedtime must come early. Games are played, but there is little dancing, as the elders

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almost unanimously frown upon it, and the authority of their churches condemns both dancing and cards. In fact, among many of the older church members the old idea survives, that any amusement is, if not necessarily wrong, at least of doubtful propriety. Hence, gatherings of the young are discouraged, even when the question of expense does not enter. Thus, lives which at best could have only too little pleasure are rendered harder and more cheerless.

The Factory Girl. — In some parts of the state the term "factory girl" carries with it the presumption of unchastity. This is not true in C——. She may be vain, empty-headed, valuing only her dresses and her millinery, but she is virtuous. In spite of disadvantages, temptations, lack of privacy and freedom of intercourse with the opposite sex, she can and does maintain her reserve. She may allow her admirer to walk along the dark street with his arm around her when returning from church, and may kiss him good-night at the door, but she will not allow him to go further. The proportion of illegitimate births in this mill population is small — smaller even than among the farming population of the vicinity, though exact statistics are not obtainable.

The penalty for a lapse from virginity is severe and sure — instant dismissal from the mill, together with the whole family of the fallen girl, and eviction from the tenement. If the girl alone were dismissed, probably she would become a prostitute. The dismissal of the family sends them away to another town or settlement; there her mother or her married sister may claim the infant, and she may be able to begin life again.

The life of the factory girl is bare. Almost from her cradle she has been accustomed to the whir of the spindles and the clack of the looms. Often her only ambition is to run as many looms as the girl beside her and to have Sunday clothes a little finer. After the first few weeks the average operative learns little. What is gained is increased dexterity; the work becomes largely mechanical, and yet she must be always ready to adjust any fault in her machines.

The country girls who come to the mills after the age of six-

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teen usually marry. But the girl born to the factory cannot cook, sew or keep house: she knows only how to keep the looms going. Besides, she is often thin, anæmic and stooped, lacking the plumpness and color which make the country girl attractive. So the latter is taken and she is left. It may be better for her to remain single than to marry and bring into the world a brood of children with no more intelligence and less vitality than the parents. After marriage, both husband and wife continue to work, and the latter gives up only when the time of confinement is close at hand. Afterward the babe may go to a neighbor's house, so that the mother may begin again. But when the number of children increases, mill work is no longer possible.

Children in the Mills. — At seven o'clock in the evening, in the neighborhood of the great spinning rooms, a scampering of feet may be heard, and dozens of small forms dart by on their way home to supper, escaping with delight from the constant whir of the spinning frames, amid which they have worked since early morning. Though quick in their movements and light on their feet, these children are stoop-shouldered, narrow-chested, sallow, and look far older than their years. As the one group goes out, as many more go in, for the spinning rooms run twenty-four hours in every day. The new group seem paler and thinner than the other, for they work all through the night under the glare of the electric lights. Many of the little girls have their snuff-brushes, and others have their pots of coffee, to be kept warm on the steam pipes and drunk when the lunch period comes at midnight. Their faces are clean, and many take pride in being wage-earners. At six o'clock they slip away to try to sleep amid the many noises of the factory village, while the sun is pouring his light through the windows. Refreshing sleep is impossible, and often they are up at twelve, when the day workers come in to their dinners. Such work tells upon adults, but children suffer more and fall easy prey to any epidemic. Yet, if left to their own choice, a majority of the children prefer to work at night, on account of the few hours of freedom in the afternoon which the day workers cannot have.

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More than two hundred children under fourteen are in the mills, more than four hundred under eighteen, spinning out their nerves, their muscles, to help sad-faced mothers or to enable lazy fathers to nurse fancied ailments with more comfort and to talk politics with more zeal.

The blame is put chiefly upon the fathers, because they deserve it. The question of child-labor disturbs the mill-owners and superintendents not a little. They do not want the children in the mills, but the pressure to admit them is steady and strong. Often the alternative of losing a whole family is presented, and good steady hands are none too plentiful; or a pitiful story of want is told; or possibly a year is added to the real age. The children are not in school — are running wild upon the streets; there is no compulsory education law, no child-labor law; and the overseers yield. If they did not make some stand against the pressure, the mills would be over-run with children. Instead of forming barely one-sixth of the employees, the proportion would be much larger.

The position taken by a number of fathers upon the educational and labor question is peculiar. In effect, and often in words, it is asserted that the parents have been subjected to the trouble and expense of rearing the child to the age of ten or twelve; and that, if they send him away to school, he will leave home or marry, and the parents will receive no benefit from his services. For the same reason, parents often oppose the marriage of their more skilled daughters. Some such fathers are often good-natured and kind in the home, but their selfishness has blinded them to any rights of the child. In sickness they are often as much concerned about the wages lost by the enforced absence from work as they are about the child's suffering or danger. These are the fathers who, when legislation to benefit the children is proposed, sign petitions that things may be left as they are.

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PRICE MOVEMENTS AND INDIVIDUAL WELFARE.

I.

EVERY individual is a buyer and a seller of commodities and services. As seller he is producer and interested in obtaining high prices. As buyer he is consumer and interested in low prices. He may be buyer of one set of commodities or services and seller of another. Hence he may profit doubly, if what he buys is cheap and what he sells is dear; or he may be doubly hit, if what he buys is dear and what he sells is cheap; or his position may remain unchanged, if a gain in one direction is offset by a corresponding loss in the other. In the complicated business world, with prices of particular articles constantly fluctuating, every sort of combination is possible, and every individual is engaged in a constant struggle to escape the evil effects of selling cheap and of buying dear.

In an intelligent community this struggle takes on a form which makes for economic progress. The producer, when confronted with a low price for that which he has to sell, endeavors to produce more cheaply. He economizes in the use of raw materials; he stops waste and utilizes by-products; he improves processes and introduces new methods; he seeks wider markets and an enlarged circle of customers; he chooses that combination of the factors of production which reduces the cost per unit of product to a minimum; he devises, plans, invents and experiments, until perhaps the whole process of production has undergone a radical change and the commodity is scarcely recognizable under its new form.[1]

The consumer seeks to escape the effect of high prices by

[1] For example, the old hand-made plough and the modern plough. Numerous examples are given in the recent report of the Department of Labor on Hand and Machine Labor (1898).

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the law of substitution. If a commodity rises in price, he not only economizes in its use but also tries to find some other commodity which will satisfy the want, even if in an imperfect manner. When meat is dear and fish is cheap, he eats more fish and less meat. If cigars advance in price, he smokes a pipe. Indulgences which are simple luxuries he may forego altogether. Through persistent action of this sort, the whole psychology of demand may undergo a change, and a commodity once commonly in use may cease to be demanded. In this way the consumer ably seconds the efforts of the producer, who is seeking to extend his market by low prices and to recoup himself by the economies of manufacturing on a large scale. The consumer, by turning his demand to the cheaper commodities, restrains the lowering in price of these; or, at least, by increasing the consumption of them, enables the producer, by a reduction of the expenses per unit for the larger supply, to maintain his net income undiminished. As to the high-priced commodities, on the other hand, the consumer, by withdrawing his demand, compels the producer to seek economies in production, in order to maintain his market by means of a lower price.

The general flexibility of the modern economic organization, with its mobility of labor and capital, free competition, power of choice, inventive genius and intellectual resources of entrepreneurs and merchants, takes care of the normal and temporary fluctuations in prices. There are undoubtedly at times unusual gains, in the form of *quasi*-rents,[1] and also periods of no profit or even of loss on the part of producers. There are periods of restricted, and again of unexpectedly great, purchasing power on the part of consumers. But the general influence of the free working of economic forces is to mitigate the extremes and to preserve a general level of prices. This process is assisted by the fact that the price of the same commodity varies from time to time, and that the prices of different articles often move at the same time in different directions. Price fluctuations due to transient or local conditions, such as good or bad harvests, changes in taste, unusual demand or exceptional

[1] Marshall, Economics, bk. v, ch. ix (4th ed.).

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supply, present this irregular appearance. As has been so often said, the price level is like the level of a large lake, which remains about the same, although the surface is constantly ruffled.

Suppose, however, that a change in price level is universal and persistent in one direction. What will be the effect? The attempts of individuals to adjust themselves to changing conditions will undoubtedly continue, and in the long run the relations of producers and consumers will become reëstablished on the basis of a new price level. But the strain on the flexibility of the industrial organization during such a transition will be very great. Arrangements based on the expectation that the price movement is only temporary and that there will be a return to the former normal position, will constantly come to naught. Suffering endured in holding on for the turn in the movement will never be compensated. Losses in one direction will not be offset by gains in another. In fact, we may well ask whether the unusual character of the movement will not so confound ordinary business sagacity and so vitiate all calculations for the future as to result in unlimited dislocation and loss? Will not the individual be subjected to such powerful, and at the same time uncalculable, influences that his economic welfare will escape entirely from his control, and prudence, forethought and energy become of no avail in the struggle?

The persistent and general fall in prices during the last twenty-five years, as shown by index numbers,[1] has given rise to much speculation as to the effect of such a movement. By some it has been pronounced disastrous to all classes — consumer and producer, landowner, capitalist, entrepreneur and laborer. Others have argued that the consumer has gained, while the producer has lost; or that the laborer has benefited, while landowner, capitalist and entrepreneur have suffered. Again, it has been maintained that consumer's gain is not necessarily producer's loss, and that low prices simply mean

[1] See "Movements of Prices," in the POLITICAL SCIENCE QUARTERLY, XIII, 477 (September, 1898).

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greater efficiency of labor, capital and business organization. And finally, it has been contended that, while temporary gains have been intercepted by middlemen and creditors, natural economic law speedily eliminates such exceptional gains, and relations remain very much as they were before.

Most of these views have been set forth in the heat of the great controversy over bimetallism as a remedial measure. Now that there is an apparent lull in that contest, it is well to examine impartially the various ideas, to determine their relative value, and especially to see if predictions of evil have been fulfilled. Such an examination may throw some light on the problem, how far economic theory works itself out in economic practice, and at the same time may give us a more solid basis upon which to reason, in case such price movements occur in the future.

There seem to be two methods by which we can approach the problem. The first is to examine critically the various statements in regard to the probable effect (theoretically) of a fall in the general price level on consumers and on different classes of producers. These statements we must weigh with such apparatus of theory as we have at command, and we must test them by such methods as commend themselves in the light of experience. Facts of observation must be used freely to verify or discredit them. After this process has been completed, certain glib formulas, which have played a large part in past discussions, may require modification or withdrawal.

The second method is to seek (by the use of statistics) concrete cases of injury or benefit affecting the whole community or certain classes during the period of falling prices. Thus we may attempt to sum up, as it were, the economic experience of a period distinctly characterized by falling prices. In this we do not, it is true, establish the causal connection between the general experience and the change of price level; but we may possibly lay the foundation for future generalizations of considerable importance.

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II.

Let us proceed to the first analysis and consider the effect of falling prices on the consumer.

We have seen in a previous article, already referred to, that, taking 1867–77 as a basis, the wholesale prices of forty-five articles in England have fallen 36 per cent — that is, the index number for 1898 was 64. Or, if we wish to avoid reliance upon a single year, the decade 1888–97 would be represented by 67, a fall of 33 per cent. It would seem that there was here a clear gain to the consumer; for a sum of commodities which during the first period cost $100, during the second cost only $67. As all men are consumers, and as the forty-five commodities represent the great foods and raw materials which are at the basis of all forms of consumption, it would seem as if the cost of living had greatly diminished. The question for each individual and for each class would then be, whether money income had remained the same or had fallen in less proportion. In either case there would be a gain. Especially in respect to the laboring class, if wages have remained the same or nearly the same, this great fall in prices must have been a benefit.

Two objections have been made to the assertion that consumers have benefited by the fall in prices since 1867–77, at least to the degree shown by the index number. The first is that index numbers are based on wholesale prices of foodstuffs and raw materials, while the consumer is interested in retail prices of bread and meat and manufactured goods, and the connection between wholesale and retail prices is not certain. A fall in the former does not necessarily mean a corresponding fall in the latter.

The exact relation between wholesale and retail prices has never been established. It varies according to the character of the commodity and the organization of retail trade. Custom and habit have a great deal to do with retail prices. According to Robert Newman,[1] there is a real connection

[1] *Economic Journal*, VII, 346 (1897).

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between the price of bread and that of wheat, the bakers being accustomed to watch the price of wheat in fixing that of bread. In the case of perishable articles, retail prices follow wholesale prices closely, because both classes of dealers desire to get rid of the whole existing supply. The retail price of bacon, butter and cheese remains remarkably steady through considerable fluctuations in wholesale prices. The price of butcher's meat depends largely upon the social position of customers. If there is a large demand for good joints, the poorer portions must be got rid of, even at low prices. In the case of manufactured goods, price depends very much upon advertising, or upon popular taste, or upon the policy of large retailers in offering "bargains" in one line of goods with the object of attracting customers to the shop.

It is clear, from the above and similar observations, that retail prices are subject to many influences from which wholesale prices are more or less exempt. But it would seem that a long-continued fall in the wholesale prices of food-stuffs and raw materials must sooner or later affect retail prices in the same direction.

The direct and simple method of solving the problem of the relation of retail to wholesale prices would seem to be to collect statistics of retail prices and compare them with similar statistics of wholesale prices. Unfortunately, very few investigations have been made of the statistics of retail prices. The variations are so great from place to place, and the commodities differ so much in quality, that it is very difficult to get a continuous series of prices for a number of years. Messrs. Giffen and Sauerbeck (very distinguished authorities) have expressed the opinion that an index number of retail prices is impracticable.[1] Professor Falkner has worked out an index number of retail prices, but it covers a period of only twenty-eight months. He has even taken the pains to compare the index numbers for wholesale and retail prices of the same articles. Commenting on this table, he says:

An examination of this table will reveal the fact that the range of variation in the wholesale prices is much larger than it is in the retail

[1] Report of Royal Commission on Gold and Silver (1886), Questions 818, 917.

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prices. If any individual article be followed and a comparison made between it and the retail figures, this will be very manifest. The tendency to stability in retail prices is not manifested to the same extent in wholesale prices, or, conversely, the retail prices do not respond quickly to the fluctuations of wholesale prices. This is perhaps best noticed in following the retail and wholesale prices of an article like creamery butter, which in the wholesale price varies from a minimum of 87.89 to a maximum of 158.51, whereas in the retail prices the range of variation is from 99.27 to 124.67. The same thing is to be observed in codfish, with a range of variation in wholesale trade from 98.58 to 120.62, with a corresponding variation in retail trade of only from 99.95 to 102.86. The fact is one of common observation, and it is perhaps unnecessary to cite further illustration. It is brought out in the most conclusive manner by this investigation.[1]

But, while the range of fluctuation is greater in retail than in wholesale prices, the tendency of the two is generally in the same direction. When wholesale prices rise, retail prices follow at a distance; and when wholesale prices fall, the retail price falls in less degree. This is illustrated for various groups of commodities by the following table, which gives the index number for wholesale and retail prices for September, 1891, taking the first three months of the period as 100.[2]

INDEX FOR SEPTEMBER, 1891.

Group of Commodities.	*Wholesale.*	*Retail.*
Food	102.16	100.53
Cloths and clothing	99.98	99.65
Fuel and lighting	98.06	98.69
Metals and implements	94.89	97.49
Lumber and building material	97.57	98.28
Drugs and chemicals	92.54	95.96
House-furnishing goods	101.27	98.82
Miscellaneous	106.53	100.52
Total	99.67	99.36

We have one other investigation of retail prices which is deserving of notice. The report of the Massachusetts Bureau of Labor Statistics for 1897 gives retail prices of groceries,

[1] Senate Report on Retail Prices and Wages, I, lxxii (1892). [2] *Ibid.*, p. 90.

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provisions, dry goods and boots, and also tenement-house rents, for 1872, 1881 and 1897. There is a decline in all articles except three—Rio coffee, beefsteak and mutton chops. Weighting the articles according to consumption as shown in workmen's budgets, the result indicates for 1897 as compared with 1872 a decrease in the price of groceries of 30 per cent and in provisions of 18.52 per cent. The method is not entirely satisfactory, but it indicates that retail prices have followed wholesale prices to a very considerable degree.

The opinion of experts before the Royal Gold and Silver Commission in 1886 was that retail prices had fallen less than wholesale. For instance, Mr. Sauerbeck thought (Question 911) that his conclusions in regard to the fall of prices applied to retail as well as to wholesale prices, although perhaps in a less degree,

> because there are a good many articles which principally enter into retail trade, like meat and butter, that have not fallen so much as the general average; but where there is a great decline, as in the case of corn and sugar, I think the consumer gets the full advantage.

And Mr. Giffen explained to the commission that retail prices need not follow closely the price of the raw material, because raw material is only one element in the cost of a manufactured article (Question 819).

The explanation of this sluggishness in the movement of retail prices is, in the first place, the friction of retail trade, which, as we have already noticed, keeps prices more stable. This necessitates an interval of time before retail follow wholesale prices, but may also have the effect of making the low prices stable when once they are reached, to the permanent advantage of the consumer. A second explanation is, that the difference between retail and wholesale prices, when the latter have fallen, remains in the hands of the middlemen—that is, the retailers. Competition, especially the growth of department stores, may be depended upon to eliminate this abnormal profit. A third explanation is, that the wages of labor, which in many cases are a more important element of cost than even raw material, do not fall *pari passu* with the fall of wholesale prices.

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This seems probable, as we shall see further on. But so far as retail prices are hindered from falling by this fact, it is evident that the laboring class, at any rate, has no reason to complain.[1] The result of the whole inquiry seems to show that when wholesale prices fall, retail prices follow; that the influences which at times retard this correspondence are either temporary in character or peculiarly beneficial to wage-earners; and that, in general, a fall in wholesale prices is of advantage to the consumer.

A second objection is sometimes raised to the conclusion that a decline in index numbers indicates an increased purchasing power of incomes or an increased command over utilities on the part of consumers. Conceding that such decline indicates increased purchasing power in general, the advantage of this to an individual, it is argued, depends upon his habits and tastes. As Mr. Pierson remarks:

> One person consumes much bread and little meat, another much meat and little bread; one person smokes tobacco, another drinks wine; a third neither smokes nor drinks, but makes a collection of books and etchings. In order to judge of the influence on the material condition of men exercised by variation of prices, it would be necessary to divide people into numerous groups, because the relative importance of the commodity differs according to individual wants. And these wants vary from one period to another; some commodities also are substituted for others because they are better or cheaper. . . . No variation in the ratio of exchange between money and commodities has the same effect on the condition of the different members of the community.[2]

All this is undoubtedly true, and its truth should make us cautious about using index numbers, especially of wholesale

[1] "We have no statistics of retail prices, but there can be little doubt that, though they have fallen considerably, the fall has not been so great as in the case of wholesale prices. This again points to the fact that wages have not fallen to anything like the same extent as the wholesale prices of commodities, for the wages of labor are an important, if not the most important, element in determining the difference between wholesale and retail prices." — Gold and Silver Commission, Final Report, p. 65. This part of the report, however, is signed only by the six monometallist members.

[2] British *Economic Journal*, V, 231 (1895).

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prices, as exactly measuring the effect upon individuals of a fall or rise in prices. The fact that the index number stands at 67 does not prove that every individual is really 33 per cent better off than he was in 1867–77. Our safeguard lies in the fact that the number is based on the prices of commodities which enter necessarily into the consumption of all members of the community, such as food and the raw material for clothing and buildings. The demand for these things is the necessary demand, the pressing demand which must be satisfied. We know from workmen's budgets that the majority of the community spend more than half of their incomes for food alone, and from 85 to 95 per cent for food, clothing and shelter. When the raw material of the commodities which satisfy these wants becomes cheap, the fall in price must ease the strain on the workmen's incomes very considerably.

A somewhat elaborate attempt has been made[1] to render index numbers more closely indicative of the beneficial effect of a fall in prices, by weighting the different articles according to their importance in the expenditures of workingmen. The attempt is beset with difficulties, because of the lack of correspondence between the items in the number and those in the budget. Such a weighted number differs but little from the ordinary index number, showing that while a general index number cannot fit every individual, it interprets roughly the general effect of price changes on the mass of the community.[2] We may, therefore, assume that a fall in prices benefits the consumer, as consumer.

[1] Senate Report on Wholesale Prices, 1891, Part I, pp. 60–95.

[2] The following comparisons are instructive, as showing the importance of the declines. Taking 1872 as the period of high prices, on the basis of 1860 = 100, we have the following index numbers (*Ibid.*, pp. 93, 94):

	All articles simply averaged.	All articles averaged according to importance, comprising 68.6 per cent of the expenditure.	Meat measured by consumption.	Other food measured by consumption.	Clothing measured by consumption.
1872	138.8	132.4	138.5	134.9	121.4
1891	92.2	94.4	101.0	104.9	75.9

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III.

We turn now to the other side of the question. While men benefit as consumers, — but even then, perhaps, in unequal degrees, — how will they be affected as producers? Will they benefit or suffer? If the latter, will their loss equal or exceed their gain as consumers? In other words, what is the effect of a persistent fall in prices upon the producing power of the community and upon the different producers?

In the great controversy that has been waged during the last twenty-five years, the advocates of bimetallism have laid great stress upon the evil effect of a persistent fall in prices. Their first charge is, that it cripples industry and discourages enterprise. The late General Walker was particularly insistent upon this view. In his last work, published a few months before his death, he said:

> But the chief of the evil effects produced by a diminished money supply is, in my opinion, to be seen in the impairment of enterprise on the part of the producer and the exchanger of wealth, due to falling prices. It must be remembered that, under the modern system of commerce and industry, the sole motive for the production of wealth is found in the anticipated profits of business. A manufacturer buys two hundred thousand dollars' worth of material and pays three hundred thousand dollars in wages, because he hopes with good fortune to realize perhaps ten or fifteen or twenty thousand dollars in profit. Unless he sees his way fairly open to realize something, after all his outlay and risk, his interest in production ceases, except in so far as he may, for a time, carry on business for the sake of holding his laboring force or his circle of customers together. In such a case, even a slight movement in the direction of prices falling between the time when materials are purchased and manufacture undertaken and the time when goods are to be marketed and paid for, may, if persisted in, become a very serious matter.[1]

General Walker goes on to show how such a condition of things presses with peculiar severity on the weaker entrepreneurs, "the lower third," who are "at a disadvantage in buying, in making and in selling."

[1] International Bimetallism, p. 273.

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To men in such a situation, steadily falling prices are embarrassing, harassing and oppressive; a weight around their necks which tends continually to wear them out and threatens sooner or later to send them to the bottom. Their margin is so small at the best, that a slight hostile force may produce the most seriously injurious results to them; while the embarrassments and failures of this lower third of the producing class constitute a continual menace to the abler men of business in their respective branches of manufacture, demoralizing the market for goods, and unsettling the market for loans with continual alarms.

He afterwards says:

But there is a still further potency for mischief to be found in declining prices. All that has been said would be true, were there not in modern business a strongly marked tendency to occasional commercial crises and to "hard times" in productive industry. It seems inseparable from the existing organization of affairs that periods of highly stimulated production should alternate with periods of depression and restricted production. Under this universal and seemingly necessary condition of commerce and industry, a general downward tendency of prices makes disturbances more frequent, increases their severity and protracts their duration. With a moderate, progressive increase of the money supply, and a general upward tendency of prices, men of business will be readier to assume the initiative; will be more courageous and hopeful; will display greater courage and energy.

Numerous quotations of a similar nature might be taken from other writers,[1] but those already given represent the general

[1] See summary of the general argument in Final Report of the Commission on Gold and Silver, p. 33: "That an appreciation of the standard creates uncertainty as to the profit to be made from commercial transactions, checks enterprise, and therefore impairs the productive capacity of the world." See testimony of Mr. H. H. Gibbs (Questions 3092–5); Professor Nicholson (Questions 4028–50); the opinion of Sir Louis Malet, Final Report, p. 125. "Absolute stability in the standard of value being unattainable, it is, in my opinion, better in the interests of those [the industrial and working] classes that the tendency should be towards depreciation rather than appreciation." See also S. Dana Horton, Final Report, Appendix, p. 81: "If a general fall of prices or rise in the value of money is an evil at all, it is an evil because it is a derangement of the terms of existing investments and obligations, and a derangement peculiarly unfortunate; being more injurious in proportion than its complement, a fall in the value of money, because it disturbs the adjustment of the machinery of business and so checks the normal growth of enterprise."

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opinion and carry authority as the latest utterance of a scientific bimetallist who had been through the whole controversy and was familiar with all the points of view.

It is not to be denied that movements of the price level dislocate industrial relations and bring embarrassment and uncertainty into industrial enterprise. The cry that went up from the business world during the period from 1873 to 1887 was a real cry of distress, and the bimetallists honestly strove to analyze it and provide a remedy. But now that the discussion has cooled off and a new era of enterprise seems to be setting in, certain generalizations which they made at the time seem to have been a little hasty and to need correction. One is, that in a period of falling prices all enterprise suffers, and that the elimination of the weaker producers is a misfortune for society. It has been pointed out repeatedly that the pressure brought upon the entrepreneur by falling prices is in some degree wholesome. It compels him to improve his methods of production, to invent appliances and machinery, to economize in raw material, to avoid waste, to utilize by-products. In this process he is helped by the increased cheapness of raw materials or half-manufactured products, by decreased cost of transportation and by the lowering of the rate of interest on borrowed capital. To practice these economies and to meet the new conditions is doubtless not an agreeable process; but why is not this the very function which the entrepreneur is supposed to exercise? His margin of profit may grow narrow, and even for a time disappear, but the entrepreneur function will remain and will be fulfilled. The elimination of the "lower third," whose embarrassment General Walker laments, is also in the direction of social progress; for, as he himself has shown, the "no-profits" employer is in the nature of an incubus on the community. On the whole, therefore, although a period of falling prices is not rich in apparent prosperity, its results are not altogether disastrous.[1]

[1] "So there would be a good deal to say on the other side, that the effect of a régime of falling prices might be rather to make people diligent and persevering, and to prevent them indulging in those wasteful measures which they are some-

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Another dogma of the bimetallists which seems to involve much exaggeration is, that a period of rising prices is altogether to be preferred to one of falling prices. This is a glorification of the bubble of inflation. Surely the world should not forget its disastrous experiences with depreciated paper money, "wild-cat" banking, "boom" towns, undue railway expansion and speculative "industrials" during periods of advancing prices. If we have to choose between the two, there are not lacking economists who assert that the slow progress and economic struggle of a period of falling prices are preferable to the ease and carelessness of a period of inflation.[1] This view has been well expressed by the late Professor Nasse :

> The unstable progress of production, moreover, caused by over-speculation and the consequent depression, is so great an evil for the whole economic and moral life of the people, and under it the laborers suffer so heavily, that I would not exchange it for the industrial depression and losses under which, in these latter years, the commercial and industrial people of Europe have suffered.[2]

It may be added that the period of rising prices seems to end almost invariably in over-speculation, over-production and a collapse; after which prices remain low for a long time, because under the stimulus of high prices the appliances of production have been increased beyond the real demand of the community. Under the restraining influence of low prices investment is cautiously made, capital is not advanced too freely and production is more nearly commensurate with demand. When a start is made again, the new demand can be met with improved methods of production, and profit can be made even on a lower scale of prices, thus preserving the advantage to the consumer.

Professor Marshall has made the suggestion that, although prices and profits may fall during a certain period, the real scale of production is not much affected. The community goes on consuming as before. The distribution of the product may be

times apt to indulge in when everything is glowing and prosperous in appearance." — SIR ROBERT GIFFEN, Commission on Agriculture, Question 23,805.

[1] The question is argued at some length by Professor Marshall. Report of Gold and Silver Commission, Question 9816 ff.

[2] Gold and Silver Commission, 2d Report, Appendix, p. 261.

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somewhat altered, but the community is still obliged to work in order to live. The true test of the effect of falling prices on the whole community would be, therefore, an objective one — namely, an estimate of the actual average product of industry from year to year. Such an estimate is not altogether easy to make. The results of the productive activity of a community — exports and imports, sales, freights carried, *etc.* — are generally given in total values. But what we want is quantities, for the values are affected by the prices. Yet, without going into the figures, one can hardly doubt that the productive power of the United States has increased enormously during the last twenty-five years.[1] Trade has increased enormously, as shown by the statistics of exports and imports. Even in England the *per capita* exports and imports, expressed in terms of money, remain pretty constant, notwithstanding the fall in prices, showing that the community is producing and consuming more.[2] Very likely progress has been slower than it would have been in a period of expanding prices. Possibly greater effort has been required to produce the increased amount. But the industrial and commercial expansion of Germany during the same period suggests that falling prices are not so disastrous to industrial prosperity as has been asserted.

IV.

One inquiry remains. Does a fall in prices affect different classes in the community in varying degrees? Does it injure all, or does it benefit some at the expense of others? This has been a fruitful field of controversy, and appeal has been made

[1] For a summary of the statistics of the production of cereals, minerals, textiles, *etc.*, see Mayo-Smith, Statistics and Economics, p. 124 ff.; for exports and imports, p. 281. See also the Statistical Abstracts of the United States and of Great Britain.

[2] For example: Total Exports and Imports *per capita*.

	£	s.	d.		£	s.	d.
1872 . .	20	0	0	1893 . .	17	14	10
1882 . .	20	8	10	1894 . .	17	11	10
1892 . .	18	15	6	1895 . .	17	19	3
				1896 . .	18	14	1

In 1896 the index number reached its lowest point — namely, 61.

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to the selfishness of almost every class, especially where the question has come into politics. The bimetallist view is represented by Nicholson :

Agriculturists especially, and all who have made contracts for long periods, have suffered severely. Producers of all kinds have also suffered a loss of profit, because it has been impossible to readjust money wages, and labor has suffered through irregularity of employment. Probably the only class which has gained much has been that of middlemen ; for it is notorious that retail prices have not fallen to the same degree as wholesale prices. It is usual to say that those with fixed incomes have gained ; but I apprehend it would be nearer the truth to say they ought to have gained, for the middleman has most effectively broken the fall in prices so far as the consumer is concerned.[1]

In this statement there are two assertions which need substantial proof : first, that employment has been irregular ; and, second, that the middleman has been able to absorb all the benefit of the fall in wholesale prices.

Professor Marshall, on the other hand, thinks that if a fall in prices

does not diminish considerably the total productiveness of industry, then its effect is on the whole good, because it certainly tends to cause a distribution of wealth better than that which we should otherwise have. No doubt some rich lenders of money in the form of debentures and other ways get their income increased at the expense of the public, which I regret ; but the greater part of the re-distribution is in the direction of giving higher real wages and real salaries to the employees, and that I think is a gain.[2]

By a careful comparison of these and numerous other statements, aided by statistical evidence in regard to the course of profits, rents, interest and wages during the last twenty-five years, we may reach a conclusion as to the probable effect of a continued fall in prices upon entrepreneurs, landlords, capitalists and laborers.

It is generally agreed that the first effect of falling prices is felt by the entrepreneurs, or capitalist employers. As shown

[1] Money and Monetary Problems (2d ed.), p. 194.
[2] Gold and Silver Commission, Question 9816.

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by the quotation from General Walker, the entrepreneur is obliged to risk the money that he spends in advance for wages, raw material and machinery, calculating upon a certain price to recoup him for his outlay and yield him a profit. If prices go down, he must content himself with little or no profit, or even trench on his capital. A series of such experiences may either ruin him, or compel him to sell out at a loss to other men, who are able to make a profit on the reduced valuation of the plant. The long list of bankruptcies since 1873 and the numerous re-organizations of railroads in the United States during the last few years illustrate the two effects. It is to be said, however, that to some extent both phenomena are simply the aftermath of a previous period of speculation and excessive expansion.

The entrepreneur seeks to escape the oppressive effects of falling prices by reducing the expenses of production. In this process he is aided by the low prices of raw material — as seen in the increased economy of railroad building and maintenance, owing to the low price of steel. He seeks new economies and improved technique of production. He uses less capital and thus reduces the rate of interest, making the financing of the business somewhat easier. Finally, he tries to economize in his labor bill, by reducing the number of his employees and the rates of wages. The general impression seems to be that the entrepreneur has succeeded in all of these expedients, with the exception of the last. The past few years have seen great improvements, especially in the organization of business and in the technique of production. The lowering of freights in the United States is an example of this. Increased output at decreased price in almost all staples, such as sugar and petroleum, shows the same thing. On the other hand, it is generally said that the entrepreneur has not been able to reduce wages to any extent, but that item we shall examine when we consider the effect on the laborer. The conclusion seems to be that the entrepreneurs, as a class, have had a hard struggle. In this period of transition many have been crippled and ruined, and new men have taken the place of the old.

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Individuals have suffered, but it does not appear that the entrepreneur function has been abandoned, or that business is pushed with any less skill, energy and determination than before.

The agriculturist seems to be in much the same position as the entrepreneur. If he is a landlord, he has suffered a reduction of rent, at least in old countries—witness the falling rents in England. If he is a tenant-farmer, he has been partly relieved by the reduction of rent, but has had a difficult struggle to get the usual profit out of his capital, owing to the low prices of what he sells. If he is a landowner and a cultivator, he has had the same struggle as the entrepreneur. What he buys has been cheaper, but he has had difficulty in reducing his labor bill and has often been embarrassed by mortgage indebtedness. In short, it has been a hard struggle, partly relieved by improvements in production.

It is a little difficult to say what has happened to the capitalist, so called—that is, the man who loans money on security at a fixed rate of interest. He is often pictured as an idle annuitant, holding a long-time bond of perfect security, drawing a fixed income and finally having his principal repaid in money of increased purchasing power. While the poor debtor struggles against adverse fortune, the creditor is supposed to sit by and, when the struggle ends, enter into his own and the other's. In a few cases this is true. But in many cases the security becomes impaired and the capitalist suffers part of the loss; in other cases the interest is scaled or defaulted; in still others he is obliged to become a silent or active partner of the entrepreneur. So, too, his loans are constantly falling due, and he is obliged to seek new investments, with less security or at reduced rates of interest. In short, the capitalist or creditor cannot escape his share of the general struggle. It requires almost as much skill and acumen to maintain a fortune as to make one. The trustee or investor has not had an easy time during the last twenty-five years. If he has tried to maintain his income, he has met many losses of principal; if he has tried to maintain equal security, he has been obliged to accept a lower income. The millions of defaulted railroad bonds and the high price of

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first-class bonds, that bear but three, three and a half or four per cent interest, are evidences of this fact.

The most important question remains: What has been the effect of falling prices on the laborer? Has he been able to escape the general struggle and to maintain or improve his position?

It would be idle to assert that during times of commercial disaster and crisis the laborer does not suffer. Factories closed or working on half time, strikes against reductions of wages, increase in works of charity and poor-relief, diminished birth and marriage rates — these are signs of "hard times" among the workers. The entrepreneur will doubtless seek to reduce the cost of labor, and he can do this in many ways: by discharging part of his forces or substituting women and children for men; by introducing labor-saving machines; by increasing the length of the working day or the intensity of labor; or, finally, by reducing wages. What power of resistance has the laborer against such measures? Factory laws and public opinion may guard against the exploiting of child-labor and against excessive hours of work; collective bargaining may secure fair wages when the employer is making money; but nothing can compel the employer to go on producing at a loss. It would seem as if the laborer would be the first victim of falling prices.

Strangely enough, however, there is evidence going to show that the laborer maintains his position with considerable tenacity. As we have already seen, the producers complain that they have been caught by falling prices on one side and inability to reduce the wages of labor on the other. The statistical evidence is abundant, if not altogether complete, that money wages have maintained their level, if they have not actually increased, during the period under review. Elsewhere[1] I have tried to sum up this statistical evidence, which need not be repeated here. Mr. Bowley has shown for England that from 1860 to 1891 money wages increased forty per cent and that, considering the increased purchasing power of money, real wages increased ninety-two per cent.[2] Professor

[1] Statistics and Economics, pp. 312–321.

[2] *Journal of the Royal Statistical Society*, LVIII, 223 (June, 1895).

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Falkner has worked out an index number of wages, taking both the simple average of the returns and an average based on the number of persons in the different occupations. The significant figures are as follows [1]:

Year.	*Simple Average of Wages.*	*Weighted Average of Wages.*	*Purchasing Power of Wages.*
1860	100	100	100
1872	152.2	153.2	136.7
1891	160.7	168.6	175.4

This would seem to show that the high wages of 1872–73 had more than maintained themselves down to 1891. The Massachusetts investigation of wages for the years 1872, 1881 and 1897 was not very complete for the first period, but in most industries it showed a decided advance.[2] The United States census returns showed an enormous increase in the average wage in 1890, as compared with 1880, but the method was so crude that the result must be accepted with great caution.

The Royal Commission on Gold and Silver did not investigate specifically the question of wages. In its final report, the monometallist members seem to indorse the conclusion of the Commission on the Depression of Trade (1886), which,

> in referring to the last twenty years, states that, while during that period wages have risen, profits have fallen, and that there is no feature in the situation which the commissioners have been called to examine so satisfactory as the immense improvement which has taken place in the condition of the working classes during the last twenty years.[3]

The bimetallist members were able to introduce evidence from only a single individual, Mr. Fielden, who tried to show that the number of trade-unionists out of employment was greater during the period 1882–86 than in the period 1871–75.[4] But most of the bimetallists do not deny that money wages, at least, have maintained themselves since 1873. Thus, Professor Foxwell, in his evidence before the Royal Commission on

[1] Senate Report on Wholesale Prices, I, 13, 93, 176.
[2] Massachusetts Bureau of Statistics of Labor, Report for 1897, p. 35.
[3] Final Report, p. 65. [4] *Ibid.*, p. 100.

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Agriculture, as late as 1894, thought that wages had slightly risen during the twenty years previous and that the general condition of the laboring class had undoubtedly improved.[1]

The bimetallists have, in fact, chosen other ground for the purpose of showing that the period of falling prices has not been a good thing for the laboring class. They say in the first place that, although the rate of wages has maintained itself, both irregularity of employment and unemployment have greatly increased. But there seems to be no statistical evidence that the average amount of unemployment has increased. Save during times of special distress due to commercial crises, as in the United States during 1893–94, the returns of trade-unions and such other statistics as we have show about the average number of unemployed.[2]

The other contention of the bimetallists is that, although labor has succeeded in maintaining or even improving its condition since 1873, nevertheless it has not gained as much as it would have gained if prices had not fallen. This view was expressed with great emphasis by President Walker:

> The question is not whether wages are as high as they were in 1873. It is whether wages are as high as they would have been but for the act of demonetization and its consequences. The wages of workingmen might be found to be considerably larger than they were at the beginning of the period; and yet it might be clear as light that the laboring classes have been subjected to great injury and loss. The working classes are entitled, not to the wages they received in 1873, but to the whole of the wages which, under the conditions of nature, of industry and of society, might fairly come to them from the employing class, through the normal operation of self-interest in production and in trade.[3]

And again he says:

> They [the working classes] have through all this period obtained as large a share of the produce of industry as they had in 1873. They have obtained an even larger share, through the force of that

[1] Minutes of Evidence, Question 26,722.

[2] For statistics of unemployment see Mayo-Smith, Statistics and Economics, pp. 91–102.

[3] International Bimetallism, p. 281.

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position of vantage which I have indicated as belonging to them. Production has increased, and increased greatly since 1873, by reason of improvements in the arts and the discovery of new resources in nature; and here, again, the working classes have gained. But production has not increased as much as it ought to have done; the cause of this has been the dislocation of international exchanges and undue impairment and precariousness of business profits; and hence the working classes have suffered, and have suffered greatly, from demonetization.[1]

Professors Foxwell and Nicholson have expressed themselves in much the same terms.[2]

To answer arguments in regard to what "might have been" is always a difficult matter. It is surely something that the laboring class has been able to hold its own, even with some suffering and hardship, during a period of transition. This is contrary to what economists expected. When prices began to fall, after 1872, it was thought that the wages of labor would also go along with them. Yet there has been an actual improvement, which Sir Robert Giffen estimates as at least twenty per cent.[3] Even the wages of agricultural labor, which was thought to have suffered most in England, have risen over a great part of the country.[4]

There are other lines of evidence going to show that the real condition of the mass of the people has improved during the last twenty-five years. One line is found in the statistics of the consumption of standard articles, such as flour, sugar, coffee and tea. There has been greatly increased consumption in most of these articles per head of the population.[5] Such increase could not have occurred, unless there had been improved command over commodities on the part of the great mass of the people. It makes but little difference how this has been brought about, whether by decreased prices or by increased wages; the fact itself is a very important index of social condition.

[1] International Bimetallism, p. 288.

[2] Nicholson, Money and Monetary Problems (2d ed.), p. 195; Evidence of Professor Foxwell, Commission on Agriculture, Questions 23,905 ff.

[3] Commission on Agriculture, Question 18,114.

[4] *Ibid.*, Question 26,731.

[5] See Mayo-Smith, Statistics and Economics, p. 45.

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It may also be shown that, on the whole, pauperism has decreased during the period under review; that thrift and savings have increased; that coöperative societies have extended their membership and increased their business; that trades-unions and labor organizations have grown in strength and resources; and that the laboring class receives more from the community than ever before in the way of free education, aids to health and pleasure, and exemption from taxation. These facts hardly seem to support the contention that during this period the wage-earner has been at a disadvantage.

In summing up, it may be said that the movement of prices affects individuals in different degrees. Without asserting that a period of falling prices is desirable, we may safely maintain that, on the whole, it is not so disastrous as has often been supposed. It imperils profit, rent and interest, but to a less degree wages. As Soetbeer says[1]:

> A continued and considerable fall in prices of commodities generally bears hard on men of business and on invested capital, and not on the workmen.

We may, perhaps, agree with Professor Marshall that a period of declining prices has the tendency to bring about a better distribution of wealth; even if we do not go so far as Professor Pierson (a bimetallist), who maintains that "economic progress consists in a continuous fall of prices, while money incomes remain the same or do not decline proportionately."[2]

RICHMOND MAYO-SMITH.

[1] Gold and Silver Commission, Final Report, Appendix, p. 218.
[2] *Ibid.*, p. 254.

NOTE. — After this article was in type, I received Mr. F. S. Kinder's monograph on the Effects of Recent Changes in Monetary Standards on the Distribution of Wealth (*Economic Studies*, vol. iv, No. 6, Amer. Econ. Assoc., December, 1899). It restates the bimetallist position with much ingenuity and considerable force. I shall give my reasons for dissenting from the author's conclusions in reviewing the monograph in the next number of the QUARTERLY. R. M.-S.

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THE PRINCIPLES OF GOVERNMENTAL REGULATION OF RAILWAYS.

IN formulating the principles of governmental regulation of railways there are three parties whose interests must be considered: the owners and managers of the railroads; the shippers and passengers, who make immediate use of the railway; and the public, or society as a whole, whose collective welfare railway transportation vitally concerns. In this article each of these three interests will be taken up, for the purpose of stating in concise form the principles to which the legislation of the federal government and of the several states should as far as possible conform, and in accordance with which the national and state railway commissions should administer the statutes regulating railroads. The principles herein enumerated are valid or not, according as they are based upon an accurate or upon an inadequate and fallacious analysis of the economic and social functions of transportation, and of the relations that ought to exist between the government and the railways.

The formulation of sound principles or ideals by which to test our conduct, national and individual, is a practical matter of prime importance. The progress of a reform movement and the solution of any difficult political or social problem are in large measure dependent upon a clear and accurate perception by society of underlying or inherent principles. The surest safeguard of rational political progress, the safest guaranty that social changes shall be conservative — evolutionary rather than revolutionary — consists in an intelligent acceptance, and a conscientious application to the affairs of our individual and collective life, of forms of conduct that are ethically and economically sound. Thus, in dealing with the governmental regulation of railroads we need, in the first place, to base our actions, as far as possible, upon a full appreciation of the essential and

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vital relationship of railway transportation to every part of our social and economic life; and, in the second place, to make our actions conform, as fully as we can, to those principles of conduct which a rational analysis of the functions of transportation shows to be fundamental and sound.

As regards their applicability, principles are generally divided into two kinds. Some principles constitute definite rules of conduct, and can readily be applied to the decision of particular and special questions; but many others, no less fundamental and valid, are of such a nature that, although unquestionably capable of application to the more extreme cases, they do not enable us to decide conclusively concerning cases which come near the mean of these extremes. Such principles are to be regarded rather as the expression of tendencies; and whether or not they are violated by a given act, is to be determined chiefly by the particular influences or consequences of that act.

I.

An analysis of the relation which governmental regulation should bear to the development and management of our railroad systems suggests three guiding principles. First, the state's regulation should not interfere with or check the normal development of our railway system. Stated in this form, the proposition can be challenged by no one; but if the term "normal" be defined so as to include non-speculative, and if the proposition be interpreted to mean that the state may properly interfere with the speculative, methods of railway construction, financiering and management, doubtless many will question the validity of the principle. It will be claimed that nearly all our railroads have been constructed as speculative business enterprises; that there is necessarily a large element of risk in the investment of property in the railway business; and that, were it possible for the state to prevent speculation in railroad construction and management, it would be unwise to do so. Though this contention is in part true, the analysis upon which it is based is unsatisfactory. In the interest alike of the railroads and of

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the public, the grosser forms of speculation certainly ought to be effectively prohibited by the government. The construction of unnecessary lines for the purely speculative purpose of making war on existing roads; the power to bond a railroad without limit and to water stock indefinitely — these are specimen evils which ought to be regulated.

The state of Texas has given its railroad commission the power "to regulate the manner of issuing, registering and securing all stocks to be issued by railroad corporations," with ample authority to enforce its granted powers. The "anti-stock-watering" act passed by the state of Massachusetts in 1894 is especially to be commended. By this law (and the Texas statute is similar) no steam or electric railroad company can make an issue of stocks or bonds without the approval of the board of railroad commissioners. Before such approval can be given, the board must examine the assets and liabilities of the company, secure an expert valuation of the property, and investigate the purposes to which the proposed issue of stocks or bonds is to be applied and the estimated cost of carrying out the work. The annual reports of the Massachusetts commission show that it has decided very many cases of this kind, the number having been greatly swollen on account of the present rapid reorganization of street railway transportation. This last fact is evidence that the law was passed at an appropriate time and that it was wisely made applicable to electric, as well as to steam, railways. The clerk of the Massachusetts commission says that "in the administration of these laws the board has undoubtedly put a salutary restraint on unnecessary increase of securities and induced economy on the part of the corporations."

There are other forms of speculation as to which the wisdom of prohibitory regulation is much less certain; whether they are necessary to a healthy normal development of our railway system, is a question of fact, to be decided by investigation. Here the application of the principle must depend on the tendencies and results of the speculative practices.

The second principle of sound government regulation is this: that it should promote, as far as possible, such development of

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the railway as is systematic and suited to the industrial and social needs of the country. In European countries generally, and particularly in France, the policy of the state in the development of the railway net has been consciously directed to these ends. On the Continent, military and other political reasons have also usually influenced railway legislation. In India and Australia — and at present also in Siberia, China and Japan — the railways are constructed with direct reference to the achievement of economic and social ends. In these last-named countries it happens that the railways are wholly or in large part owned by the state; but that is not essential, in order that the location and the regulation of the lines may be determined according to industrial and social needs.

In the United States the railway corporations were left to develop their lines pretty much at will, and the chief concern of the states and the local communities was to secure as many roads as possible. The incentives to railroad building have always been strong in the United States. Individual initiative has seldom needed the stimulus of governmental subvention, and in this regard we have been more fortunate than foreign countries. Indeed, during the last thirty years we have suffered from the construction of too many, rather than too few, railroads. Nevertheless, since we are as yet in but the initial stages of many forms of industrial and commercial activity, the government (in our case the state governments, because they charter the railway corporations) may most properly insist that the future development of railway lines shall conform to that system which will best meet industrial and social needs. This principle has, indeed, been adopted in the legislation of several states. Maine, Connecticut, Massachusetts, New York and New Hampshire have given their railway commissions or their courts the power to decide whether the "public convenience requires the construction" of a proposed steam or electric railroad. During the year 1896 alone the New York commission passed upon thirty-three applications for permission to construct such roads. In Connecticut the courts have exercised a powerful influence upon the location of electric lines. The danger of

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clothing officials with the power to grant or deny the right to construct a railway is patent, but the public benefits undoubtedly outweigh the public harm. The accomplishment of good often involves some danger.

The third principle to which the governmental regulation of railway development and management should conform is, that state regulation should foster, rather than hinder, coöperation in railway management and in the performance of transportation functions generally. The history of railway management unmistakably teaches that coöperation enables the railroads to perform their functions more economically and to serve the public more efficiently. It also results in fewer discriminations and other objectionable practices than follow from unrestrained competition. To foster such coöperation is neither to condemn nor to eliminate that form of competition which is beneficial and which is, in reality, the most powerful. Competition is of two very distinct kinds: in rate-making, which is vicious; and in service, which is beneficent. Coöperation in no wise terminates the ever-present and powerful competition in service which the inexorable laws of trade and the resistless pressure of economic conditions force upon the railways. The rate-making power of the railroad companies who draw up the schedules of charges is but little more than nominal. Rates on export grain, for example, are fixed by the competition, first, of North Atlantic seaports with one another and, second, — to an increasing degree, — by the rivalry of the Gulf and the Atlantic seaboard cities. To cite another conspicuous instance, rates on products shipped by rail from the entire region north of the Potomac and the Ohio rivers, to supply Southern markets, are fixed by the competition of the all-water routes with the mixed water-and-rail lines from the North Atlantic industrial cities to the South.

This industrial competition of one region with another has a more far-reaching influence over railway rates than is generally supposed. Manufacturing and other industries located along the line of one railway compete in large measure with similar industries situated along other railroads. Consequently, if any

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particular railroad company is to succeed in holding the industrial establishments it serves and is to develop its tributary region by attracting new investments of capital, it must give to the producers for whom it carries goods as favorable terms as possible. It is doubtful whether any other form of competition is a more potent regulator of railway rates.

In this connection, it is not necessary to enumerate the many other forms which competition in service inevitably takes, whether coöperation in rate-making does or does not exist. From the conditions indicated by the three illustrations given, it is evident that two results follow: (1) without coöperation, demoralization and chaos in rates must prevail; and (2) coöperation in rate-making cannot enable the railroads to make extortionate charges. Railway history in this country affords abundant proof of both these propositions.

The Interstate Commerce Act is inconsistent, in that it prohibits unjust discriminations, while it denies to the railways that degree of coöperation which is requisite to the elimination of those evils. The Anti-trust Act of 1890 is even more out of harmony with the best principles of railway regulation than is the anti-pooling section of the Interstate Commerce Law. In legislation and administration it should not be the policy of the government simply to oppose the railways; rather, the aim should be to assist the railways to the best possible performance of their transportation functions. In adjusting the relations of carriers and shippers, the state should act as a judge and not as an advocate of either party.

II.

Another of the three parties whose interests must be considered in a formulation of the principles of railway regulation is made up of the patrons of the roads — the passengers and the shippers. The relation of governmental regulation to these interests is a complex one, involving the whole problem of rates — of absolute and relative charges to be paid by different persons, in different places, upon various classes of commodities

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or for personal transportation under widely dissimilar circumstances. The following principle, stated broadly, should be at the basis of government regulation: the state should insure to all shippers and travelers equality of advantage in procuring transportation services. More specifically stated, all persons within a given area or region (1) should be charged like rates for substantially similar services and (2) should be charged for dissimilar services such rates as tend most fully to secure to each class of producers the natural economic advantages of their environment.

In the application of this general principle, it is necessary to decide the basis or bases upon which railway rates should be fixed. Cost of service and value of service are the two standards most frequently adopted for the theoretical determination of the rates which may rightly be levied. Rates are, in fact, determined — so far as any principles whatever are followed — with reference both to cost and to value of service. In countries where state ownership prevails the chief endeavor is to adjust the rates in proportion to cost of service; under the régime of private ownership the rates are usually based on the value of service, and charges are fixed roughly in accordance with "what the traffic will bear." In the United States the state and national governments, in regulating railway transportation charges in the interests of the shippers and the travelers, can adopt neither of these two bases of rate-making entirely, without transgressing one or more of the principles of railway regulation set forth in this paper. Were the government to insist that the railways should adopt and enforce schedules of charges based on the cost of service, the revenues derived from the carriage of goods of high value in proportion to weight and bulk would be greatly reduced, and the railroads would in consequence be compelled to raise the rates upon the cruder materials of the farm, forest and mine to such an extent as greatly to check social and industrial progress. Were the government to prevent the increase in rates on these bulkier goods of low value, the normal and desirable development of the railway system would be interfered with. Practically, the con-

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struction of schedules on the cost-of-service principle is out of the question, since it is impossible to determine accurately the elements which enter into the cost of a particular service. And against the ideal of adhering as far as possible in the regulation of railways to the cost-of-service theory of rates, a further objection will appear in discussing the relation of governmental regulation to the public or to society as a whole.

If the demand for equality of advantage is not met by trying to adjust railway rates in proportion to the cost of service, to what extent does charging according to the value of the services rendered meet the requirement? To a greater degree, but not fully. By "charging according to the value of the service" is meant that each article or class of commodities transported — passenger traffic being eliminated from consideration, for the sake of simplicity — shall contribute to the aggregate cost of transportation, in proportion to the value which the transported article or commodity acquires by means of the service rendered to it. The rate may cover a part or the whole of the value of the service; but in either case it is fixed with reference to the value which the article acquires by being moved, and not with regard to the cost involved in performing the work of carriage. It is claimed by the proponents of this theory of rates, that charges for the transportation of commodities should be based upon ability to pay, and that the value of the service to the article is the measure of the article's ability to pay.

Much depends, however, upon the way in which we determine what is an article's ability to pay. The absolute value imparted by transportation to goods of low value is less per unit of weight or bulk than in the case of high-priced commodities, but the percentage of increase in value is much greater in the former than in the latter. Expensive articles can be carried long distances without adding very much to their cost to the consumer. Measured in percentages, then, the value of the service is low in the case of the higher priced commodities. Is that theory of rates ideal which justifies a transportation charge on wheat equal to between twenty and

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forty per cent of the farm value of the product and a charge on shoes of perhaps two per cent of their factory value? Though the products of the farm, the forest and the mine gain a large part of their value through the railways, which make them marketable over wide areas, yet, inasmuch as these are the commodities which furnish the producers with food and supply the raw materials of manufacturing activity, they ought to be kept as cheap as possible to the consumer, and the transportation burdens placed upon them ought to be kept as low as is practicable.

Charging according to value of service is sometimes confused with charging according to the value of the commodities transported. Greater absolute value is given by transportation to high-priced commodities upon which the higher rates are imposed; hence it is said that charging according to value of service is charging with reference to value of commodity. The inaccuracy of such reasoning has been made evident enough by what is contained in the preceding paragraphs. Rate-makers do, however, in a general way take into consideration the relative values of articles and make the rates higher on the more costly goods. This is not an unfortunate fact, but is the partial application of a principle to which greater weight should be given.

A satisfactory, tenable theory of rates upon which charges may be based — a theory applicable to all the complex conditions of railway transportation charges in this country — has not yet been formulated. It is probable that such a theory is an impossibility, and that we must content ourselves with analyzing and giving due weight to the considerations which should affect actual rate-making. If the railways were owned and managed by the state, it would be a less difficult, though by no means an easy, matter to follow an accepted ideal in rate-making; but state ownership of railroads in this country — at the present time, at least — is neither possible nor desirable.

State regulation of privately owned railways, for the purpose of insuring to the customers of the railroads equality of advantage in procuring services, ought to give weight to three considerations:

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First, the cost of the service performed by the railroads must be covered by the charge. It is not possible, and would not be desirable, to adjust charges proportionately to costs of service; but two results, at least, are indispensable. First, total costs, including a fair profit on investment, must be covered by total receipts; and, second, the minimum rate charged any particular class of commodities should cover the operating expenses incurred by the carrier in transporting the goods. It is doubtless practicable to adjust rates so that certain commodities shall be required to contribute little or nothing towards meeting the fixed charges of the railroads, leaving the articles of higher value to defray such charges; but it is difficult to see how the interests of the railways could be conserved and the development of the railroad net insured, if minimum rates were allowed to go so low as not to cover costs of operation.

Second, the maximum railway charge in any case cannot be made to exceed the value of the service. If the charge should be greater than the increase in value to be gained by transportation, the service will not be demanded — at least, not of the railroad. This is a fact which the rate-makers are careful to observe.

Third, between these two limits — the minimum rate fixed by the operating expenses and the maximum charge determined by the value of the service — actual rates may vary through a wide possible range, and are subject to forces which will, unless modified by the regulative action of the state, result in unjust discriminations. In securing equality of advantage to those who procure transportation services, the state can rely entirely upon no one theory of rates. Charges should be determined partially with reference to the value of the service and in large part — more than is the case at present — with regard to the value of the articles transported. In this way, rates would be paid by the various articles more nearly in proportion to their ability to pay. The state is not hereby recommended to regulate rates in accordance with the principle that all charges should be proportional to the values of the commodities; for exceptions would be found desirable, in the interest both of

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individuals and of the public. It is, however, contended that the values of commodities give a theoretically just basis of rates, which the state should accept as one of the important factors in deciding what rates should be permitted or required.

This brief statement is not to be taken as a complete theory of rates, but rather as a summary of some of the principles which the government cannot safely disregard in its efforts to insure to all persons of a given region equality of advantage in procuring transportation services — that is, for similar services, like charges; and for dissimilar services rates varying in such a manner as will tend most fully to secure to each class of producers the natural economic advantages of their environment.

In this statement of the general principles which should be kept in mind when the state attempts to regulate railways, care has been taken to limit the application of the principles to persons "within a given area or region." The United States government regulates the interstate commerce of the whole country, while the states have power only over the traffic within their respective borders; but it may be desirable, because of differences in economic conditions or for special social reasons, — for the United States, at least, if not for the states, — to permit different transportation charges in different sections. Persons within the same section should enjoy like advantages; but, for the accomplishment of certain social ends, it may be wise and proper to give the people of one section greater advantages than are given in another. This brings us to the third and last division of our subject.

III.

The third interest to be conserved in the governmental regulation of railroads is the well-being of the public or of society as a whole. Since transportation is a function upon which every part of the social organization is vitally dependent, its regulation by the state necessarily affects all industrial and ethical progress. If this be true, the welfare of the public, as a whole, requires that the government should regulate the rail-

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ways in accordance with the principle that there should be as great a degree of socialization of rates as is consistent with a fair return on capital actually invested and with a healthy development of the railway system.

This term, "socialization of rates," is somewhat new in English, though a phrase of similar meaning is common in German literature on transportation. In general, it means fixing the charges — which, taken collectively, will cover the total expenses of transportation — with reference primarily to the needs of society, and only secondarily to the cost or value of each particular service. If the state owns the railways, it is possible in theory to make this principle the sole standard of rate-making. For practical reasons, however, no nation has given the principle more than partial application. The principle influences many transportation charges on foreign railways, and has some effect on rates in this country. The ideal contained in the principle should be kept in mind, and given as great weight as the practical situation will permit, in shaping our policy of governmental regulation of railways.

This ideal of a greater degree of socialization of rates should, first of all, stimulate us to increased efforts to regulate rates so as to prevent unjust local and personal discriminations, of which there are still such frequent instances. It should, in the second place, as has been indicated above, emphasize the need of seeking to adjust rates less in accordance with the cost and value of the service, and more in proportion to the value of the articles transported. Transportation charges constitute a part of the costs of production — are one of the necessary burdens of industry; and therefore, in the interests of general social welfare, this burden should be distributed more as taxes are. Articles of high value should pay a larger share of total transportation charges than they now pay. In one other way, at least, the ideal of a greater socialization of rates will appreciably influence the regulation of transportation. We may expect to see special transportation charges adjusted with reference to the promotion of such definite social ends as increasing the mobility of labor and stimulating the substitu-

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tion of suburban for urban residence. In this particular something has already been accomplished, and more will be done with the future development of our systems of transportation.

This principle of the socialization of rates is to be accepted as an ideal towards the attainment of which we, in this country, should move by a conservative evolution. We should adopt no specific measures that will prevent invested capital from earning a fair return; we should attempt no revolution in railway management; we should not make the serious mistake of substituting state ownership for private ownership of the railroad; but in the regulation of railways the conscious endeavor of the government should be to bring about, under the régime of private ownership, such an adjustment of charges to transportation services as will best promote the industrial and ethical progress of society as a whole.

The governmental regulation of railroads in the United States is a problem which several causes combine to make complex and difficult to master. In the vast area of our country, the varying economic conditions of different sections, the great length of our railway system, the large number of corporations owning lines, the historical development of our railway net independent of any direction by the government for social ends, we have a set of conditions that exist in no other country. Twenty-five years of regulative efforts on the part of the states, with ten years of activity by the federal government in the same direction, have served rather to reveal the difficulties to be surmounted than to enable us to overcome them. Still, substantial progress has been made — enough, at least, to demonstrate the desirability of adhering to the commission system of regulation and of strengthening the administrative machinery we now have. Changes in our policy of governmental regulation of railways should be made in a conservative spirit, with due regard to all interests concerned. We should hold fast to that which we have, and keep constantly building for the future on the foundation of present achievements.

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STATE ADMINISTRATION IN NEW YORK.

THE scientific study of political forms and methods in the United States has until recent years been confined entirely to the problems of constitutional law. In this field the history of American government abounds in practical experiments based on discussions of general principles and definite theories, with the result of securing something like a general consensus on the most important questions. It is possible to recognize distinctively American tenets on such subjects as the suffrage, the organization and selection of the legislature, the judiciary and the chief executive, and the division of powers between the state and the federal governments.

In direct contrast, the problems of administration have been solved in the most haphazard manner, with little reference to any sound and consistent policy. The colonial period, indeed, showed a steady tendency towards a completely decentralized administrative system, which was practically attained in New England; but, in the face of this, the federal government adopted at the outset a system independent of the existing states and localities and based on centralizing principles. As the result of a hundred years of practical experience, and apparently without deliberate intention, the federal administrative service has become centralized in spirit as well as in form, and the various local officials are now distinctly subordinate to the higher authorities at Washington. This system, however incompatible with the theory of local self-government, is at least consistent with itself. The administrative arrangements of the various states, however, reveal an almost complete lack of system and an absence of harmony between theories and practical conditions. The decentralizing forces of the colonial days continued in effect for more than half a century after the attainment of independence, and during that period

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the theory of "local self-government," as the ideal administrative system, became more and more stereotyped in the popular mind. But while the theory has become more definite, the practice of the half century now closing has drifted steadily away from a complete realization of the general policy. Social and economic forces have proved too strong for theoretical considerations, and to-day the ideals of administration and the actual facts are in apparently hopeless conflict.

This situation is most striking in those states where the industrial revolution of the last five or six decades has been most complete. And perhaps in no state is the existing administration more out of harmony with the generally accepted American theories than it is in New York. In this state the history of administration has shown emphatically the double swing of the pendulum. Decentralization progressed steadily until the third decade of this century, and continued until after the adoption of the constitution of 1846. The reflex wave was first noticeable about 1820; but for three decades after that the trend of development was not consistently in either direction. Since the middle of the century, the return tide has steadily grown stronger, and its effects have been more clearly marked; while the increment of acceleration for the last two decades shows that the end is not yet.

To-day the scope of state authority constitutes an important feature of the administrative system of the state of New York. There are nearly fifty permanent state bureaus and commissions, besides several temporary boards. The roster of state employees includes eight thousand persons. In 1890 the expenditures by state authorities (excluding funds turned over by the state to local officials) was almost equal to the expenditure of counties and towns. Since 1890 the direct state expenditure has nearly trebled, and a large part of the increase has been caused by the assumption of functions formerly left to the local governments. If we compare New York with other states, we find that the per capita expenditure for state purposes is nearly one-fourth greater than in Massachusetts, nearly twice as great as in Pennsylvania, and almost three times that in New Jersey.

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This machinery of state administration has developed, not only without definite plan or system, but in direct contravention of the strict theory of local self-government. Students of political conditions have noticed these state bureaus, but only as items of public patronage and state expenditure, and in this respect as open to severe criticism. Increased patronage and expenditure are, however, not necessarily altogether evil; and a study of the development and of the existing conditions of administration may show practical reasons for the establishment of state authorities, may disclose the forces that have secured the departure from earlier theories, and may indicate a trend towards a new system. If so, it may be well to formulate a new administrative policy — remembering, however, that the new system need not be the complete antithesis of earlier ideals.

Central Administrative Control.

The difference between a thoroughly centralized administrative system and a system of local administration under central administrative control is one that must be constantly borne in mind. The latter can, indeed, be carried so far as to make the practical results the same as in the former system; but it is seldom that this situation is actually reached. Between the extremes of despotic centralization and complete local independence, the relative authority of local and central bodies may vary indefinitely; but there is always conceivable a middle point, at which regard for local autonomy and private rights may be perfectly coördinated with administrative efficiency and with proper attention to the interests of the larger governmental units.

Recent administrative development in New York state has in large measure taken the direction of establishing central administrative control over local officials. The principal state bureaus exercising such powers are the state superintendent of public instruction, the regents of the university, the state board of charities, the board of prison commissioners, the state board of health, the civil service commission, the state engi-

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neer and surveyor, the tax commissioners, the state comptroller and the excise commissioner. Of these, the educational authorities are elected by the legislature — the superintendent of public instruction for three years, and the regents (of whom there are nineteen, besides *ex-officio* members) for life. The comptroller and the state engineer are elected by the people at the same time as the governor. The other authorities are appointed by the governor, though the terms of different individuals expire at different times.

Several of these authorities, besides having supervision over local authorities, perform functions of direct state administration and deal with private persons as well as with local officials. This side of their activities will be considered later; at present we will consider only their power of supervision and control over local administration. This can be most easily understood by noting the extent to which the various forms of administrative control have been applied. In general, we may say that the development in this direction has gone so far that in the various state bureaus there may be found examples of almost every possible form of central administrative control.

Reports of Local Authorities. — A central organ of control may do no more than collect, preserve and circulate statistical and other information obtained through reports from the various localities. The advantages of such concentration of information, in facilitating comparisons and in making the experience of each locality available for all the others, are unquestioned. "Power may be localized; but knowledge to be most useful must be centralized; there must be somewhere a focus at which all its scattered rays are collected, that the broken and colored lights which exist elsewhere may find there what is necessary to complete and purify them."[1]

This primary method of supervision falls within the scope of all of the state bureaus mentioned, and their annual reports contain much valuable information concerning the local administration of schools, charities, jails, health conditions and taxation.

[1] John Stuart Mill, Representative Government, p. 304.

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The power to collect reports necessarily includes the authority to determine the rules which the local officials must follow in making these reports. For the most part, the information thus published consists of statistics previously known or easily ascertained by the local authorities; but to secure even such facts was the work of some time. It was twelve years after the creation of the state board of charities before a uniform system of records was secured from the county almshouses. The vital statistics collected by the state board of health have called for facts much more difficult to obtain; and for several years after the law went into effect the returns received were not sufficient to warrant their publication. For the past ten years the mortality statistics have been reasonably, though not entirely, complete; but the data of births and marriages are so deficient that no tables have yet been published.

Inspection by Central Authorities. — In many respects, accurate knowledge of local conditions cannot be gained from documentary reports of local officials; and there must, therefore, be systematic inspections by state agents. Such inspections are made by most of the central bureaus. Thus, the school commissioners, who perform this work for the common schools outside of the cities, are elected locally but act under the direction of the state superintendent of public instruction. This officer also appoints a small number of inspectors, to examine the teachers' training classes in secondary schools and to investigate the local enforcement of the compulsory education law. The regents of the university now have seven inspectors of secondary schools. The members of the board of charities, the prison commissioners and the tax commissioners make personal examinations of local administration. In this field the board of charities has been ably reinforced in many counties by voluntary committees, connected with the State Charities Aid Association but acting as agents of the state board under its regulations. Salaried inspectors of charities have been employed since 1896, and in 1898 the prison commission was also empowered to appoint salaried inspectors. The state board of health has at times made temporary use

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of inspectors, notably during the summers of 1892 and 1893, when there was a possibility that cholera would invade the state. But, although recognizing the advantages of a permanent body of inspectors, the board of health has taken no active measures to establish such a force. The tax commissioners visit a number of counties each year and in each county examine several hundred parcels of real estate, comparing local assessments with actual values. From the evidence thus collected the equalization of aggregate assessments among the various counties is determined; but it is obvious that three commissioners, attempting to cover the entire state, can make only a superficial examination of local assessments.

A more thorough method of inspection, by means of an audit of accounts, is exercised in a few cases. The excise commissioner, for example, is authorized to audit the excise accounts of county treasurers; and the comptroller audits the accounts of appraisers and examines the records of the surrogates to investigate the enforcement of the transfer tax. In local finance, a similar control has been introduced over the court and trust funds of the county treasurers, which are audited by the agents of the comptroller once a year. Besides auditing financial accounts, the excise commissioner, by means of sixty special agents, investigates the collection of liquor taxes and the enforcement of the other provisions of the liquor law.

The most intensive test of local administration in New York state is that secured by the "regents' examinations" in the secondary schools, in both preliminary and academic subjects. Introduced to secure a uniform basis for apportioning the state grants to secondary schools, they have had a most beneficial influence on the curriculum and educational methods of secondary schools throughout the state; and to-day the regents' certificates and diplomas fix the standard for secondary education in New York. The number of papers annually read is now over 400,000; and the examination department, which prepares the questions and marks the papers, consists of forty regular employees, besides nearly as many more engaged for short periods.

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Advisory Influence of Central Authorities. — It is, of course, possible that a central authority might be established with no other functions than those of collecting and publishing information concerning local administration. And such official information would not be without considerable effect, in leading local officers to realize the true state of local conditions and the possibility of improvement and increased efficiency. But it is unlikely that any authority possessing the powers of effective inspection and examination will terminate its activities with the announcement of the results of these investigations. The central body will inevitably feel qualified to point out specific faults and needed improvements. The various state bureaus in New York all exercise at least an advisory influence over the local administration, and in practice they have thus secured many improvements which they had no positive authority to enforce. Thus, the department of public instruction has effected considerable modifications in the construction of school buildings, by publishing a pamphlet of architects' designs and furnishing working plans and estimates. Since 1895, too, the department has recommended an outline course of study, the adoption of which tends to establish a more uniform system among the common schools and to prevent the retrogression which would otherwise result from frequent changes of teachers. The state board of charities, through its recommendations and tactful suggestions, has likewise secured a vast improvement in the management of the county poorhouses. From being "the abodes of the able-bodied, idle and vagrant, as well as nurseries of pauperism and crime for children," they have now become largely "homes for the aged and the infirm, furnishing also comfortable accommodations for the enfeebled and sick."[1] The prison commission has secured increased cleanliness in county jails, some progress in the direction of classifying prisoners and in a few cases radical building improvements. The state board of health, by preparing and recommending sets of local sanitary ordinances, has called local boards of health into existence and activity throughout the state; and has also become the

[1] State Board of Charities, Reports, X, 20.

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centre for a constant correspondence with local boards, by which the accumulated experience of the state board is effectively distributed. Under the highways law of 1898, the state engineer and surveyor forms a bureau of information on highway construction and maintenance.

The general statement may, indeed, be made that the New York state boards of control have accomplished more through their advisory and educational influence than through the exercise of mandatory powers. They have worked through the local authorities, preserved rather than attacked local autonomy, and offered their services as a means of instruction and guidance. In so doing, the various state boards have wisely recognized the place they could best fill under American conditions. But while, in the main, the advisory influence of these state bureaus has been the most important means for accomplishing effective results, they have not been without some forms of more positive control, which remain to be noted.

General Regulations by State Authorities. — The power of imposing general rules and regulations upon local authorities is possessed in some degree by most of the state bureaus. The state superintendent of public instruction, for instance, has very large powers as regards the school commissioners. The statutes require that these officers shall follow the rules of the state department in their inspections and in recommending and ordering improvements in schools and school buildings. The state board of charities is not merely authorized, but required, to adopt rules for the reception and retention of inmates at such private charitable institutions as receive financial assistance from local authorities; and such regulations have prevented many improper admissions and unnecessary retentions, and have thus effected a considerable saving to the local treasuries. The prison commission is now required to establish and enforce in all county penal institutions uniform rules for the treatment and discipline of prisoners; and it may also issue specific orders to the local officials in regard to the construction and improvement of buildings or the management of such institutions. In the construction of highways aided by state grants,

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the maps, plans, specifications and estimates of cost of construction are to be made in the office of the state engineer and surveyor. The state board of health can not only recommend sets of sanitary regulations to local boards, but it can require any local board to take action in any particular case; and in the construction and extension of sewerage works by villages, the plans must be approved by the state board. Finally, the state comptroller has, for the summary collection of the corporation tax, the right to issue a warrant to the county sheriff, under which the latter is obliged to levy on the property of a delinquent; and the warrant of the comptroller for this purpose is equivalent to a warrant issued by a court of record.

Central Control over Local Appointments. — Another positive power of control is that exercised over the appointment of persons to subordinate positions under the local authorities. This control is most important in the selection of teachers for the common schools. Outside of the cities, no person can secure a license to teach without having passed the teachers' examinations, for which the question papers have since 1887 been prepared by the state department of public instruction, and the answers have since 1894 been graded by the state department. In fact, twenty-four of the forty cities in the state have voluntarily adopted the state system of examinations; while a recent law provides that in all cities no new teacher may be employed who has not had three years' experience in teaching or passed an examination in a special course of study for teachers prescribed by the state superintendent of public instruction. It is in the cities, too, that the only control over subordinate appointments other than those of school-teachers is exercised by the state. This control, which is very slight, is secured by the requirement that the rules and regulations of city civil service boards (controlling examinations for municipal appointments) must secure the approval of the state civil service commission.

Power to over-rule Local Decisions. — The final form of positive control is the authority to over-rule specific decisions and acts of the local officials. This power is possessed by the state board of health, but only to a very limited degree. It can

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directly perform any duty neglected by a local board, and it can over-rule those acts of local boards which affect the public health beyond the jurisdiction of the local board. A more important instance is the tax commissioners' power of equalizing the assessments of real estate; but this extends only to raising or lowering the aggregate assessment for an entire county, and does not give authority to change or annul any individual assessment. Much the most significant example of this form of control is the appellate jurisdiction of the state superintendent of public instruction. Any person considering himself aggrieved by the decision of any local official (district meeting, trustees, supervisor or school commissioner) on school matters may appeal directly to the state superintendent, who is authorized and required to examine and decide the appeal; "and his decision shall be final and conclusive, and not subject to question or revision in any place or court whatever."[1] This appellate jurisdiction gives the state superintendent a comprehensive authority over the whole field of school management; and through it he does, in fact, exercise an extensive control over local school administration. The number of appeal cases annually decided averages over a hundred; and the rulings not only enforce statutory regulations, but also lay down definite lines of policy on matters not determined by law and check abuses of the discretionary power that is vested in the local authorities. The actions of school district meetings, district trustees, teachers and school commissioners are the basis of the great bulk of appeals; but even city boards of education have been called to account and have had their decisions over-ruled. The authority thus exercised by the state superintendent has become so extensive that a number of attempts have been made to carry matters into the law courts; but in every instance the various decisions of the Supreme Court, and also the Court of Appeals, have upheld the statute and have declined to interfere with the decisions of the state superintendent.[2]

[1] Laws of 1822, c. 245; Consolidated School Law, title xiv.

[2] 2 Wendell, 287; 11 Wendell, 91; 3 Denio, 175; 38 N. Y. Reports, 58; 34 Howard, Pr. Rep., 336; 63 Hun, 389; 19 Hun, 609; 78 N. Y. State Reporter, 556.

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Methods of Enforcement. — The methods of enforcing the various rules and decisions of central authorities are important in determining how far their powers can be made effective against strong opposition on the part of local authorities. On this phase of the subject we must note the absence, more often than the existence, of drastic powers in the New York state bureaus. In the many matters over which the various central organs exercise only an advisory influence, there is, of course, no provision for enforcing the wishes of the state officials. But where the central body has specific powers of direction and definite authority, there are usually some means named for overcoming the resistance of local officials, though for the most part these means are limited in scope.

In many cases the central administrative authority must rely on the courts to secure enforcement. Thus, if the directions of the prison commission, requiring improvements in jails or in the treatment of prisoners, are not followed, the commission can proceed only on an order from a justice of the supreme court, which can be secured only after satisfying the judge that the improvements are reasonable. The state comptroller, if dissatisfied with a local appraisal for the inheritance tax, can apply to a supreme court justice to appoint another appraiser to re-value the estate. In other cases the central bureaus are specifically authorized to apply to the courts for the summary processes of mandamus and injunction. The excise commissioner may ask for an injunction against any person unlawfully dealing in liquor. The state board of health may begin mandamus proceedings to compel local boards to execute any duty prescribed by statute. The state superintendent of public instruction can enforce his rulings against supervisors and town clerks only by the use of the same process. In all these cases the compulsory enforcement of a decision of the administrative body requires the coöperation of some judicial authority.

Among methods of enforcement directly by the administrative authorities, the power to hold back state grants to the local authorities is possessed by both of the state educational bureaus. The state superintendent of public instruction, in

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apportioning the common school grants, must satisfy himself that the local authorities have maintained schools for the required period and have complied with the other conditions. He also has authority to withhold the share of any school district, for willful disobedience of any of his decisions, orders or regulations; and he can withhold from any district or city which does not enforce the compulsory education law one-half of its quota of the state appropriation. The salaries of the school commissioners are paid from the state treasury, on the order of the state superintendent, thus giving him means for securing the execution of his instructions to the school commissioners. The grants to secondary schools are distributed in large part according to the results of the regents' examinations, which thus automatically reduce the state aid to schools that do not come up to the required standard. The state engineer also has some authority of this kind, since his decision as to which highways shall receive state aid enables him to enforce the construction requirements he adopts. This method of enforcement depends, of course, on the existence of state appropriations to the local authorities; and these are made only for the purposes named above.

The power of removal of all county officers is possessed by the governor of the state; but this is so limited by constitutional provisions and rules of procedure as to be of no service in the actual control of the local administration. It can only be employed after specific charges of positive misconduct have been made and have been investigated at an announced hearing, where the accused has had an opportunity to make his defense. This limited power of removal can be of use in putting an end to flagrant malfeasance in office, but it cannot well be exercised to improve the methods of administration. As a matter of fact, it has seldom been used at all.

The power of summary removal would give the removing authority a powerful weapon with which to enforce its ideas and methods in local administration. But to confer this power would be a long step in the direction of complete centralization; and, if supplemented by giving to the central authority

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the power of appointment, it would abolish completely all local autonomy. Either of these steps must be considered inconsistent with the spirit of our development, as manifested not only during the period of decentralization, but even in the recent tendency towards central supervision of local authorities. This recent tendency has not involved the supplanting of the local authorities and the restriction of their activity: the process has been rather that of urging those authorities to greater activity and greater efficiency. The various methods of administrative control are primarily methods for inciting local authorities to action and requiring them to bring their local administration up to a minimum standard. Only in minor instances do they include the power to limit local official activity. For the latter purpose, judicial control by the courts, whose main function is to protect private rights, is generally sufficient. But where local officials are inactive or inefficient, no individual's rights may be seriously and immediately affected; and in such cases, where both judicial and legislative control are unavailable or inadequate, administrative control is the only effective, and hence the advisable and necessary, remedy.

The practical results from the exercise of the various forms of administrative control over local authorities in New York state have fully justified their existence. It is far beyond doubt that the authority and influence of the department of public instruction have been responsible for much of the recent improvement in the common school system throughout the state; and it is equally clear that the regents of the university, by their examination system and other activities, have raised the standards and methods of the secondary schools. The state board of charities has secured wonderful changes in the local administration of poor relief; and the prison commission has, even in the few years of its existence, well begun the work of improving local penal institutions. The state board of health has brought into existence hundreds of local boards, and has made them, as well as previously existing boards, vital forces in their respective communities. The comptroller's authority

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over surrogates and the excise commissioner's powers in connection with the liquor law have greatly improved tax administration in certain lines, whatever may be thought of the new liquor tax as a police measure. Even the tax commissioners have secured some improvement in the assessment of the property tax on land; and they could accomplish more, if their control were more complete.

Direct State Administration.

The term "direct state administration" is employed to indicate those functions of state administrative authorities which bring them into direct contact with private individuals or corporations, rather than with local officials. The functions of direct state administration may be classified under three heads: First, the mere control over private enterprises; second, the active management of enterprises, whether such as were previously directed by local authorities or by private concerns, or such as constitute entirely new fields of activity which the state considers it advisable to enter; third, those functions which are auxiliary to the general work of administration.

Administration of Public Institutions. — We may begin with the second class. Of the enterprises managed by the government in New York state, the most important are the charitable institutions. The eleven state insane hospitals alone employ nearly five thousand persons and require for their maintenance the expenditure of four million dollars a year. In addition, there are asylums for the feeble-minded, epileptic, blind and deaf-mutes; homes for veteran soldiers and sailors; and the industrial schools or reformatories for boys; together with twelve more state institutions, employing over eight hundred persons. The total state expenditure for charitable purposes was in 1896 over seven million dollars.

The management of each of the state charitable institutions is under the direction of a board of unsalaried managers, appointed by the governor. The managers for each of the insane hospitals must be residents of the hospital district in which

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their respective institutions are located. Each board of managers selects a superintendent and a treasurer, and establishes general rules for the internal government of the institution. Each superintendent appoints his subordinate employees, subject to civil service rules, and may remove any of them for cause stated in writing. The general supervision of the insane hospital system rests with the state commission of lunacy, consisting of three salaried members, appointed by the governor. This board has the usual powers of control possessed by the New York boards of supervision, receiving full reports from the various hospitals and requiring uniform books of records and forms of report to be kept. It must visit every state institution twice a year and it has comprehensive powers of inspection. It is also authorized to make specific recommendations. In addition, it has the unusual power of examining, for approval, the itemized estimates for the expenditures of the insane hospitals, which expenditures are authorized only after the estimates have been approved by the state commission. The state charitable institutions other than the insane hospitals are under the general supervision of the state board of charities, which has the same control over these state institutions as over local charities. Its authority is much the same as that of the commission of lunacy, except that the power of approving estimates for expenditures is vested in the state comptroller.

While the local administration of the public schools is under the direction of locally selected officials, subject to state control, local authorities have done little in the way of special training for teachers; and, so far as that is not performed by private institutions, it is in the main a function of direct state administration. The state maintains and supports twelve normal schools, under the general direction of the state superintendent of public instruction. That officer appoints the local board of unsalaried managers for each school, determines the number and the salaries of teachers, fixes the number of pupils and the method of their selection, and has veto power over the course of study adopted by the local boards. The teachers' training classes in high schools and academies are also under

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the direction of the state superintendent, who selects the schools to receive state grants and prescribes the entrance requirements and the courses of instruction for these classes. Further, the program for the teachers' institutes held in the various counties is arranged by the state department of public instruction, and the instruction is given by the state corps of institute conductors. The state library, administered under the direction of the regents of the university, is also within the field of direct state administration. Somewhat similar in character is the state museum of natural history, devoted to botany, entomology and geology.

The state prisons were established earlier than any other of the present direct administrative undertakings of the state. The institutions at Albany, Clinton and Sing Sing now have a force of nearly four hundred persons, as keepers, guards, foremen and special instructors in the various prison employments, and the necessary clerks and household employees. Moreover, under the present system of prison labor, the entire body of prisoners forms (in some sort) a body of over three thousand workers, engaged in industrial pursuits, though the products made can be sold only to the state and its political divisions. The articles produced include clothing, shoes, furniture, both wooden and metal, brooms, brushes, baskets, wooden and tin ware, and printing and stationery.

The general management of all the prisons is now centralized under the superintendent of prisons, appointed by the governor. The superintendent appoints the wardens, physicians and chaplains for each prison, and controls the government, discipline, police, contracts and fiscal concerns. The state commission of prisons has a general supervisory power over state, as well as local, penal institutions. It prepared the present convict labor law; and in the operation of the law it assigns the industries to be carried on at each prison and, in conjunction with several other state officers, fixes the prices to be charged for the articles made. The operation of the new system of prison industries has not yet made the prisons financially self-sustaining; but it has provided for the

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prisoners useful employment which yields the state a partial return for the expense of their maintenance.

The industries undertaken in the state prisons are necessarily subordinate to their correctional and reformatory functions. But New York state is also engaged more actively in industrial lines, through the construction and operation of the state canals. The cost of constructing and improving these canals has been nearly a hundred million dollars, and the annual expenditure for their maintenance is about one million dollars, nearly five hundred persons being regularly employed in this work. The general direction of the canal system is in the hands of the superintendent of public works, who appoints the superintendents of repairs, inspectors and other employees; provides the necessary tools, materials and labor for ordinary repairs; enters into contracts for larger improvements; and makes rules for the navigation, protection and maintenance of the canals. He is appointed by the governor, who may also remove him at any time. The engineering work on the canals is under the supervision of the state engineer and surveyor, who is elected by popular vote. This officer also has charge of making surveys, maps, plans, specifications and estimates for improvement works. The canal board, composed of the elected state officers (except the governor), is authorized to investigate all matters pertaining to the canals and to exercise a veto power over plans, specifications and estimates made by the state engineer.

During the earlier history of New York the management, rental, lease and sale of public lands formed an important field of state administration, the active duties relating to which fell mainly on the state surveyor. But most of the public lands have now been sold; and the chief activity of the state in connection with the remainder is directed to the preservation of the forests. To this end the state lands in the forest district have been formed into a forest preserve, the management of which is under the commission of fisheries, game and forests. Of a somewhat similar nature are the state reservations at Niagara Falls, the islands in Lake George and Esopus Island in Dutchess

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County. None of these reservations, however, requires as yet any considerable administrative force.

Administrative Supervision of Private Enterprises. — The branch of administrative activity which involves the largest number of state organs is the supervision and control of private undertakings. In this are included many of the state bureaus already noticed, as authorities of central administrative control over local officials. Thus, the regents of the university exercise over private academies which receive state grants the same supervision as over tax-supported high schools. The state board of charities and the state commission of lunacy have powers of visiting and inspecting private charitable institutions. The state board of health has direct control over nuisances and unsanitary conditions affecting areas beyond the control of a single local board of health. Specifically, it is empowered to take measures to prevent the pollution of streams used as water supplies, to enforce the food and drugs adulteration laws and the laws regulating the sale of explosives, and to suppress contagious diseases in animals. In these matters the state board of health can call into play the summary processes used by the local boards to suppress local conditions dangerous to the public health. The quarantine officials for New York harbor — the health officer and the quarantine commissioners — are also state functionaries.

In addition to this state supervision of private action in the interests of higher educational standards, discriminating charity and the public health, a much wider extent of state supervision over business and industry, in the interests of the general economic and social well-being, is exercised by another long series of bureaus and commissions. And while these administrative organs do not undertake any industrial operations, their regulation of private enterprise is minute, and requires for its performance a body of subordinates who form a considerable item in the civil service of the state.

Over every business undertaking carried on by a corporation there is some control exercised. Every corporation must follow the general rules of organization laid down in the statutes, and

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must file its certificate of incorporation with the secretary of state. It must also pay the special state tax on corporations, in the collection of which the comptroller has the power to examine the books of any corporation. But there is no comprehensive system of examination into the operations of all corporations, as such.

In some lines of corporate industry, which are largely monopolistic in nature and have a quasi-public character, there is a much more intensive control. The superintendent of banking has the oversight of all state banks, savings banks, trust companies, building and loan associations, mortgage, loan and investment corporations, and safe-deposit companies. He has the power to refuse permission to do business, to visit and inspect institutions at will, and to proceed against an unsafe concern for insolvency. Trust, loan, mortgage, guaranty and indemnity companies are examined regularly, and are required to report semi-annually. In like manner, the fire, life, accident, marine, title-guaranty, and credit and coöperative insurance business is supervised by the superintendent of insurance. So, too, the business of railroads, including city street railways, is carefully watched by the board of railroad commissioners. These commissioners are required to keep informed as to the condition of the railroads and their manner of operation, and they can require improvements to be made for the security and the accommodation of the public.

State administrative control is exercised for certain purposes over all manufacturing and mining industries. The factory inspector, with his fifty deputies, has extensive powers to regulate factory conditions, on behalf of the comfort, health and safety of the operatives. Especial attention is paid to large factories, tenement-house industries, mines, bakeries and confectionery establishments. The business of horse-shoeing can be carried on in cities of the first and second class only by those who have passed the examinations of a state board. The board of mediation and arbitration endeavors to settle disputes between employers and employees, and to prevent strikes and lockouts; but it has no compulsory powers to

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enforce its decisions. The bureau of statistics of labor collects and publishes statistical data, especially in relation to the commercial, industrial, social and sanitary condition of the workingmen.

Agricultural and related industries are also under state administrative control, through the commissioner of agriculture. His duties relate mainly to the stringent regulations for the manufacture and sale of dairy products and imitations of such, but extend also to such purely open-air industries as the cultivation of bees and fruit trees. In connection with this department the state maintains two agricultural experiment stations. The board of fisheries, game and forests, with its fish and game protectors and foresters, restricts such extractive industries as hunting, fishing and timber cutting.

Trade and commerce are also subject to some state control. There is a state inspector of weights and measures and a state inspector of gas meters, though neither of these is a very active functionary. The port wardens of New York harbor are also state officers. Auctions and peddling are licensed by the state.

Finally, there is the control over professional occupations, exercised mainly through examinations by state authorities, which must be passed to secure permission to enter on the active pursuit of the profession. This is the case in law, medicine, surgery, pharmacy, dentistry, veterinary medicine and accounting. For each of these professions there is a state board of examiners, all of which, except those for law and pharmacy, are connected with the regents of the university. Teachers in the public schools, as has been noted, are required to pass examinations under state control. And the subordinate employees in the state administrative service are appointed only after passing examinations conducted by the state civil service commission.

Functions of General Administration. — There remain a few state bureaus whose functions have not thus far been mentioned. These are the organs rendered necessary by the very existence of government, or indeed of any organized activity, and their origin dates from the political beginnings of New York. The

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principal of these are the secretary of state, in his capacity as custodian and attestor of official records, the attorney-general or legal adviser, the state treasurer, the comptroller and the commissioner of public buildings. The duties of these officials have steadily increased with the development of state business, and especially with the growth of the state administrative service.

Over the entire administration stands, in some sense, the governor of the state. His active authority is, however, confined to making appointments and, in rare cases, to removals for cause. This power of appointment is now an important one. It extends to the heads of all the administrative bureaus established within the last half century — that is, to all the important administrative organs, except the educational authorities chosen by the legislature, and the state officials elected by popular vote.[1] Nearly all appointments are, however, subject to the approval of the state senate. Moreover, the whole of the appointing power is not possessed by any one governor. His term is but for two years; while most of the administrative positions run for longer periods — some for so long that even a governor who serves for two terms does not have the opportunity to make all the appointments pertaining to the office. Over the detailed administration of any of the bureaus it is seldom that any governor has exercised much influence. In one instance the governor is an *ex-officio* member of a board (the regents of the university), but even here few governors have taken an active share in the work. In fact, the political and legislative influence of the governor in New York is of much more importance than his control and direction of the state administration.

Conclusions.

This survey of the state administration reveals some facts of importance in any consideration of the development of a rational and consistent administrative policy. In the first place, the

[1] These are the secretary of state, the comptroller, the state treasurer, the attorney-general and the state engineer and surveyor.

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assumption by the state of extensive enterprises, involving large bodies of employees and intricate processes of organization and industry, is of comparatively slight development. For certain classes of educational, charitable and correctional work large state institutions offer advantages which could not be secured by most of the local sub-divisions of the state. So, too, such works as canals, where a single management is essential, if they are to be public, must be under state rather than local control. But most of the important interests of this kind, where the advantages of system and strict uniformity dictate a high degree of centralization (foreign relations, army, navy, post-office, regulation of currency and foreign commerce), are already cared for under the centralized system of the federal government. For the great mass of public administration, however, which is carried on by means of agents in the various localities, local election or local appointment of such agents is still the prevailing rule. The tendency nowadays is to use larger and more populous local areas, and to substitute appointment for election; but it cannot be said that there is yet any pronounced movement towards the appointment of administrative agents with authority extending to all parts of the state. This fact is most significant, and it sustains the fundamental doctrine of the theory of "local self-government" — that in all matters where local knowledge is important, where the coöperation of private and governmental agencies can be secured, or where the need of uniformity and rigid system is less pressing, the detailed administration should be vested in a locally selected authority.

On the other hand, two tendencies oppose complete local independence. In the first place, the control of large industries is clearly becoming a state, and in no sense a local, function. Industrial operations, under modern conditions of transportation and business organization, are conducted on such a scale that no merely local regulation can prove effective; so that this tendency must be recognized as in harmony with actual conditions. In the second place, the development of central administrative control over local administration is equally clear.

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In every one of the older branches of local administration, this control has been established in some degree — in education, charities, correctional institutions, health regulation and taxation. In all of these matters it is now recognized that, in addition to the local interest or local knowledge which makes local administration advantageous, there is also a general interest which justifies central control over the local authorities. And if, as seems to have been the case, this control has in practice been productive of good results, in improving the efficiency of local administration without impairing local autonomy on matters where local interests should prevail, this tendency, too, must be commended.

The principal field in which there is still no system of administrative control is that of the special undertakings of the large urban municipalities. But the cities have been subject to central control in another way. Urban conditions have required special methods and special powers, to secure authority for which the cities have had recourse to a vast deal of special legislation. These special statutes, instead of making general grants, have, by enumerating the powers and duties of the municipal authorities in the utmost detail, constituted a strict system of legislative control over municipal administration.

This legislative control of municipal governments has been the subject of much well-founded complaint. From the nature of the legislature, the control has been exercised more often for political ends than with a view to greater efficiency in municipal administration. It has also, again necessarily, lacked consistency, even in the objects which it has attempted to reach. Most of the outcries against legislative interference with municipalities have, however, simply called for a cessation of legislative action, without recognizing the need of special provisions for special cases and of some systematic control over municipalities. The true remedy for too much legislative interference is to be found in the application of the principle of central administrative control. Broader general grants of power may be safely made by the legislature, if at the same time the approval of the appropriate central organ is required before the local

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authorities can act. This is precisely the method of procedure now followed, for example, in the case of village construction of sewerage systems, which must have the approval of the state board of health. The beneficial effects of this method, in relieving the legislature of petty details and in securing at the same time provisions better adapted to local needs, go far to justify an extension of the same principle. It is, indeed, the principle of the "provisional orders," which have proved so successful in solving the difficulties of special legislation in England.

A central administrative authority over municipalities could perform other functions of supervision which the legislature cannot perform in any satisfactory way. It could collect, arrange and publish valuable information concerning the operations of the municipal governments. It could direct a central audit of municipal finances, and could establish a more flexible system of regulating municipal indebtedness than the present rigid limitation by a fixed percentage of the assessed valuation, which takes no account of all the facts that determine the financial status of a city. It could also provide a permanent machinery for investigating charges of mismanagement and corruption in municipal administration, which would be much more effective than spasmodic attempts by means of legislative committees. In all these respects a central administrative organ supervising municipalities would be following principles already well established in other fields of administration. Nor would the supervision interfere with actual local administration. It would, in all probability, be accompanied by a decrease in legislative control and interference on political and partisan grounds.

Besides the vacant field for administrative control over municipalities, experience also indicates that some of the existing central authorities could with advantage be given larger powers. These, however, are matters of detail rather than of general principles, though special mention may be made of the value of a force of inspectors under the state board of health. A more important change, involving the adoption of a definite policy, is the consolidation of the many scattered and heterogeneous

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authorities into some organized and related system, under a few departmental heads. Some steps have already been taken in this direction; for three separate bureaus have been united in the fisheries, game and forest commission, and the mine inspector has been made a subordinate of the factory inspector. But there is great room for advance in this direction. The two educational authorities should be united in some way. The various finance bureaus could well be combined under a secretary of the treasury, following the precedent of the national government. The many bureaus dealing with the control of industry could have their work correlated to advantage, if under a secretary of commerce and industry; while within such a general department there might be several divisions, each combining several of those bureaus whose functions are most closely related. Other combinations of different bureaus are both possible and advisable. Probably some bureaus might be altogether abandoned in such a process, but most of them would continue as sub-divisions of the larger department. If the fifty different state administrative organs were thus systematically correlated, so as to secure the advantages of concentration of knowledge and coöperation in action, there would be increased efficiency in the working of the state administration; and the change would make possible an explanation of the system that would greatly facilitate a popular understanding of what the state government is and does.

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THE VALUE OF POLITICAL PHILOSOPHY.

IT is undoubtedly a popular verdict that speculative results, in whatever department of thought they may be reached, are of but little value in practical affairs; and this is held to be true even in those cases in which the results of reflective thinking are conceded to be the outcome of a correct logic. "That may be all right in theory, but it will not work in practice," is the answer of those who accept both the premises and the reasoning, but refuse to be governed by the results.

It needs no argument, of course, to demonstrate not only that it is impossible for any one not to philosophize to some extent, but that, in truth, if a conclusion is valid in theory, it will work in practice. For the purpose of a necessary simplification of problems it is often necessary to leave out of consideration for the time being, though not to deny, the existence of certain modifying circumstances. The economist does this when he bases his principles on selfishness and predicates a universal and consistent desire to buy in the cheapest and sell in the dearest market. He does not deny or overlook the facts that altruism abounds and that prices are often fixed by custom or by charity, rather than by pitiless competition, but he simply takes for his guidance the strongest and most general principle to be found in the economic world and determines his laws accordingly. For these laws so determined he makes no claim of absolute exactness. He admits that their operation is subject to the influence of modifying circumstances and that thus, in fact, they express tendencies rather than absolute principles. The same is true, not only of the laws set forth by the other social sciences, but of many of those established by the more exact sciences. It is because the qualifying clauses, *rebus sic stantibus* or *ceteris paribus*, are forgotten, either when the law is stated or when an attempt is made to apply it, that the theories of philosophy have often come to naught in practice.

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But speculative politics has a more than ordinarily difficult task, in its attempts to justify itself before the modern realistic world. Against it is brought not only the reproach, in Bacon's words, that, like a virgin consecrated to God, it is barren, but also the charge that, like an imp devoted to the Evil One, it is fertile with disaster. The purpose of the present essay is to answer both counts of this indictment. What I shall have to say will thus naturally fall into two parts: first, a defense of political speculation from the charge that evils are inherent in the pursuit of it; and, second, a presentation of the practical advantages to which it may be made to lead.

I.

The first charge is one under which politics rests in common with all speculative thinking — namely, that its difficulties are largely self-created, with the result that it obscures rather than illuminates the subjects dealt with. The English philosopher Berkeley alleged, as a reproach to philosophical thinkers generally, that they would themselves first kick up a dust and then complain that they could not see; and Burke described the discussion of abstract political questions as "the great Serbonian bog 'twixt Damiata and Mt. Cassius old, where armies whole have sunk." Without doubt such reproaches as these have not been wholly undeserved, either by political speculators or by other abstract thinkers. From pure delight in metaphysical subtilty and speculative profundity, not a few writers have been wont to spin out the staple of their argument till they, as well as their unfortunate readers, have found themselves "no end in wandering mazes lost."

But so far from this being the legitimate or necessary result of abstract thinking, the true aim of philosophy is, and the true result should be, the clarifying of ideas, and this in two ways: first, by determining precisely the connotation of terms which in common thought have but vague and indefinite meaning; and, second, by assigning to each distinct concept a distinct term that shall exclusively express it. The elaboration of this point

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will be postponed to the latter portion of this paper, in which the positive advantages of political philosophy are considered.

But a far more serious evil than mere obscurantism is alleged to attend the pursuit of political speculation. It is seriously charged that the study of political philosophy is fraught with absolute evil to practical politics.

"Happy is the nation," says Leslie Stephen, "which has no political philosophy; for such a philosophy is generally the offspring of a recent, or the symptom of an approaching, revolution."[1] "One sure symptom of an ill-conducted state," says Burke, "is the propensity of the people to resort to theories." And Professor Dunning, in a recent essay wherein he shows the absence of a distinctively American political philosophy, questions upon historical or inductive grounds whether this is to be deplored.

> The history of philosophy [says he] is not reassuring upon this point. Aristotle's *Politics*, the magnificent product of the Hellenic political system, was written just as that system was passing finally away. The work in which Polybius glorified the constitution of republican Rome, as embodying all the elements of ultimate and permanent political science, was written less than half a century before the birth of Julius Cæsar. Thomas Aquinas formulated the grand philosophical system of a theocracy under the Pope about seventy-five years before the papacy became the humble adjunct of the French monarchy. Dante's elaborate and conclusive argument for universal monarchy under the German Emperor was, as Bryce has finely said, an epitaph instead of a prophecy. Without multiplying instances, it seems as if the exaltation of the principles of a particular system into doctrines of universal philosophy only sounds the knell of the system. If this be true, we may have as good ground for rejoicing as for regret that no distinctively American philosophy has yet appeared.[2]

Whether we take opinions like the above as serious or not, it is obvious that the bare enumeration of such instances does not prove that the development of the philosophies caused

[1] History of English Thought in the Eighteenth Century.
[2] Essays on the Civil War and Reconstruction, p. 364.

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the downfall of the systems whose principles they attempted to universalize. In fact, so far from political philosophies having been the cause of revolutionary changes in objective political conditions, objective political conditions have ever been the cause of philosophies. There is no fact to which the history of political theories contributes such absolute and universal testimony as that new conditions of political life have offered the proximate impulse to the formulation of new political theories, and that existing political institutions have ever supplied the actual models upon which such philosophies have been consciously or unconsciously elaborated,—and this notwithstanding the fact that, in theory at least, an absolute philosophical system should be one whose validity is independent of particular objective conditions and whose deductions are of universal application. The doctrines of Plato and Aristotle were thus plainly founded upon the Greek city-state, and the application of most of their principles was limited to that civic type. Sovereignty, as an abstract conception, is the same now that it was when the first state existed; but its precise definition was not formulated until the time of Bodin, Grotius and Hobbes, when actual political conditions and exigencies made such a definition obvious as well as necessary. Positive law is the same in essence now that it always has been; but not till the rise of the legislative activity of modern law-making bodies was the distinction between law and custom definitely drawn, and the essential character of the former seen to consist not in the source of the principles embodied in it but in the sanction supplied by the state. So, too, the doctrines of popular sovereignty, of contract, of the divine right of kings and of the federal state have been the outcome of particular historical conditions. They have not been spontaneously evolved from the inner consciousness of their original propounders, but suggested by the conditions of the times at which they were enunciated and made to afford theoretical justifications for political movements then in operation. So far as concerns the historical instances, mentioned by Professor Dunning, of political downfall attending the steps of philosophical systems, it is to be observed

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that the works of Aristotle and Polybius lay rather in the field of descriptive and practical politics than in the domain of pure theory, and that in none of the cases enumerated were the succeeding events caused by an attempted application of principles speculatively determined by the philosophers mentioned, but, if anything, by an absolute disregard of the advice which such systems gave.

So far from history showing the evil of speculative thinking in politics, it may be made to show the reverse. Were this a method of argument upon which we wished to enter at length, many suggestive facts could be brought forward. We could show, for example, that the enduring benefits derived from the speculations of Grotius have been almost beyond estimate; that, in addition to causing an immediate and considerable mitigation of the cruelties of war, the principle then introduced, of the equality of states in international intercourse, — a principle entirely abstract in character, — has been of the greatest value in restraining the stronger states and in furnishing a principle to which weaker states may appeal against high-handed aggression. Again, while Aquinas and his school may have supplied the argument for the papal hierarchy, the political philosophy of Dante, Occam, Marsilius, Buchanan, Hotman and Althusius afforded the counter doctrine which ultimately prevailed and has been of infinite benefit to the human race. How much modern individual liberty owes to Locke, Milton, Sidney, and even to Rousseau, can only be conjectured, but the debt is not insignificant. And, finally, it might be pointed out that, even did history show that political revolutions actually have been precipitated by philosophical systems, additional evidence would be required to determine that such political overthrows were not an advantage to the race, rather than otherwise. In truth, from the mere fact of the instability of the old régime and from the fact that an unsatisfactory condition of public affairs is more apt than a satisfactory condition to stimulate inquiry as to the character and legitimacy of existing political institutions, the presumption would be that the change was a desirable one. The efficiency of political speculation in this respect could,

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therefore, be cited as one of the positive advantages that attend its pursuit, rather than as an evil.

The foregoing defense of political theory is not, of course, to be taken in any sense as a justification of those ill-advised schemes of political organization which are at times put forward. These may do, and in some cases have done, great harm: in some cases by dressing up in specious language ideals undesirable in themselves; in others by declaring the possibility of attaining certain political results — abstractly desirable, it may be — for which the people addressed are not prepared, either by way of temperament or education. The result in this latter case is either to create unnecessary or ill-founded discontent with existing conditions, or to precipitate violent or otherwise ill-advised political action. The introduction of the so-called historical method into the study of political conditions and institutions grew out of a revolt against the prevalent loose reasoning, based upon vague doctrines of natural right and law. But never, even at the hands of its founders and most famous exponents, was the idea formulated that the historical method was absolutely to supplant the theoretical or philosophical. When Savigny developed the thesis that all law embodies the living spirit of a people, that it is an historical growth developing in organic connection with the peculiar character and needs of a people, and that, therefore, it is not a body of principles capable of creation by the fiat of an arbitrary power, he did not mean that all the conceptions embodied in a developed system of jurisprudence are to be traced to this source. He fully recognized that the trained legal specialist is required in order properly to analyze the ideas and elements involved in the law. This is a point often overlooked in defining the aim of the historical method, when applied to laws and political institutions. Professor Morley, however, in his essay on "The Historical Method," makes it very plain. As he there points out,

> Savigny holds that the historical method, by tracing laws to their source, will discover an organic principle whereby that which still has life will separate itself from that which is already dead and belongs only to history. In this way the historical study of law and

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custom will show us where any particular legal institutions are the product of conditions which the nation has outgrown, and may thus become a method of ascertaining when laws have outlived the circumstances under which they were appropriate. Beyond this Savigny does not go. He does not seem to look on the historical method as competent to settle the distinctively theoretical questions of jurisprudence, and, in his *System of Modern Roman Law*, published in 1840, he goes so far as to say that "the reasons which first gave rise to the name of an historical school have as good as disappeared with the prevailing errors which it was then necessary to attack."

The construction of Utopias is often thought to occupy the main attention of political speculators. It must be apparent, however, from what has already been said, that this is by no means the principal pursuit followed. The chief aim, at least in this day, is the scientific analysis of facts and forces in our political life. At the same time, the construction of an Utopia is not necessarily either a worthless or a dangerous task. In so far as the desirable is not confused with the immediately possible, such a political type, if properly framed, presents a stimulating ideal to be striven for, or a standard by which the success or moral quality of present conditions may be gauged. This is a distinction so well drawn by M. Paul Janet, in summing up an estimate of Plato's *Republic*, that it may be worth while to have before us his own words.

A distinction must be drawn between Utopian politics and ideal politics. The first consists in combining artificially, and by means of the imagination, the elements of which all society is composed, and thus creating an arbitrary mechanism which has no life, no reality, no possible application, either present or future. . . . Ideal politics, on the contrary, consists in forming a true idea of the state, in conceiving it in its perfection (as much so, of course, as the limits of the human mind permit), and lastly, in presenting to societies a model, as ethics presents one to individuals. No state will ever reach that perfection, any more than any hero or any saint has ever attained or ever will attain moral perfection. But if we do not forbid ethics to propose an ideal to men, why should we forbid politics to present one to peoples and to governments?

Let us turn, now, to an objection which, if not more serious than the one we have just been considering, is sufficiently

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grave and is still more difficult to meet. Aside from the citation of historical instances tending to prove the concomitance of political philosophy and political disaster, the more fundamental objection has been made that the habit of philosophizing in politics is perversive of that mental balance which enables one rationally to judge of practical matters. Especially has this been emphasized by Lecky, of whom it may be said, in passing, that, himself a philosopher, he is now in actual political life as a member of the English House of Commons, where he has as colleagues Morley, Balfour and Bryce, all of whom are of decidedly philosophical temperaments. In his *History of Rationalism in Europe*, Lecky writes as follows:

> Another consequence of the intellectual influence of political life is the tendency to sacrifice general principles to practical results. It has often been remarked that the English constitution, which is commonly regarded as the most perfect realization of political freedom, is beyond all others the most illogical, and that a very large proportion of those measures which have proved most beneficial have involved the grossest logical inconsistencies, the most partial and unequal application of some general principle. The object of the politician is expediency, and his duty is to adapt his measures to the often crude, undeveloped and vacillating conceptions of the nation. The object, on the other hand, of the philosopher is truth, and his duty is to push every principle which he believes to be true to its legitimate consequences, regardless of the results which may follow. Nothing can be more fatal in politics than a preponderance of the philosophical, or in philosophy than a preponderance of the political spirit. In the first case, the ruler will find himself totally incapable of adapting his measures to the exigencies of exceptional circumstances; he will become involved in inextricable difficulties by the complexity of the phenomena he endeavors to reduce to order; and he will be in perpetual collision with public opinion. In the second case, the thinker will be continually harassed by considerations of expediency, which introduce the bias of the will into what should be a purely intellectual process, and impart a timidity and a disingenuousness to the whole tone of his thoughts. It is probable that the capacity for pursuing abstract truth for its own sake, which has given German thinkers so great an ascendency in Europe, is in no slight degree to be attributed to the political languor of their nation.

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In effect, Lecky apprehends that, just as the introduction of partisan or particularistic elements will hinder the attainment of philosophic truth, so the too exclusive pursuit of abstract thinking, while not positively disqualifying one for rational and sensible opinions in practical affairs, will, as a matter of fact, tend to give to the mind an intellectual bias so dominant as to render likely an insufficient regard for modifying circumstances.

To much of this we may give assent. It is distinctive of the philosophic method, as has already been said, that it selects certain ideas or phenomena, divests them of all non-essential modifications and qualifications, and thus obtains an accurate knowledge of their real characters. Now, the habit of thus viewing phenomena and ideas in the abstract, dissociated from all modifying influences, may easily create, when too exclusively pursued, a tendency to minimize unduly the importance of those qualifying conditions which ever exist in complex political life. While, then, the pursuit of political philosophy is, in itself, a good thing, there may be too much of a good thing. While I believe that the speculative side of politics deserves far more attention in our universities than it now receives, I should not deny that it might receive too much attention. But this is a danger which is not seriously to be feared for some time to come.

The real objection to the reasoning of Lecky is that it represents the purpose of political philosophy as largely, if not wholly, the formulation of general principles for the guidance of practical politics, whereas such an end is entirely foreign to speculative politics in its purest form. The deduction of general rules of political conduct belongs to the art of politics; while for political philosophy the aim is the discovery of the essential nature, true relations and the exact classification and description of the phenomena with which it has to deal. The deduction of characteristics and relations which are essential and distinctive in political bodies, and which may, therefore, be predicated of them all, is a wholly different thing from the generalization of maxims or principles of political procedure.

The only danger inherent in political speculation, then, is not

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that its principles are abstract, but that erroneous deductions may be drawn from them. Moreover, its conclusions may be misunderstood or misapplied. But such possibilities are common to all departments of science. Dangerous and improper use may be made of the principles which theoretical chemistry and physics determine, but we do not for that reason declare those sciences inherently dangerous. A proper conception of sovereignty leads logically to the ascription to the state of legal omnipotence; but if this be confused with actual physical omnipotence, erroneous deductions may be drawn. At the basis of the rules of international intercourse lies, as has been said, the theoretical assumption of the equality of all states; but if the sovereign state of San Marino, for instance, with its standing army of seventy men all told, should interpret this in a manner other than that in which it is intended to be construed, unpleasant complications might ensue. A logical process makes it necessary to deny the title "law" to the rules that regulate the international relations of states, since the term "law" connotes commander and commanded, superior and inferior, and an organ with the power to impose a penalty in case of disobedience — elements which do not exist as between sovereign nations. But the denial that the rules in question are technically law by no means implies that they are not actually obligatory upon civilized nations. Nor, finally, does the logical assumption of a given legal power have anything to do with the necessity or propriety of the exercise of that power. As Burke so earnestly argued at the time of the oppression of the American colonies, the fact that the English Parliament had undoubtedly the strict legal right of arbitrary taxation was no reason for maintaining that the exercise of the right was either expedient or morally justifiable.

II.

Having defended political philosophy from some of the criticisms which have been directed against it, we may turn now to the positive advantages to be gained from it.

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Our negative conclusions have already served to make evident some of the positive benefits of speculative thought, in general, and of speculative politics, in particular. It will not be improper, however, to enumerate them again in this place.

First, there is the precise terminology which philosophy, and philosophy alone, can render possible. As Jeremy Bentham has somewhere said, "every improper term contains the germ of fallacious propositions; it forms a cloud which conceals the nature of the thing and presents a frequently invincible obstacle to the discovery of truth." How often this is true probably few of us appreciate. Herodotus mentions with ridicule the argument of the Egyptians, that fire is an animal because it "devours"; but the fault of confusing the ambiguous meanings of words has not become extinct since that time. For instance, we find Coleridge admitting that he at first favored the French Revolution, because of the pleasure which he derived from watching the free movements of the clouds in the heavens above him and the unrestrained rolling of the waves of the sea as they dashed at his feet, not stopping to consider that, even if the clouds and waves were free from natural control, — which of course they are not, — such freedom had no likeness whatever to the political freedom for which his Gallic neighbors were striving. Again, a recent American writer impugns the maxim that "a king can do no wrong," by the declaration that in truth "a king can do no good," just as if these two assertions were antithetical. Locke, impressed by the confusion of thought that arises from inexact terms, declared, in a passage suggestive of the famous dictum of Talleyrand, that if any one

> shall well consider the errors and obscurity, the mistakes and confusion that are spread in the world by an ill use of words, he will find some reason to doubt whether language, as it has been employed, has contributed more to the improvement or hindrance of knowledge among mankind.

It is only by the most careful analysis of current conceptions, through an abstract or philosophical treatment of a subject, that a logical ground can be prepared for the adoption of terms sufficiently precise to avoid, as far as may be, the evils which

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Locke so plainly saw and so pessimistically set forth. Philosophy is sometimes defined as a criticism of categories, and such it truly is. Words that in common usage have no precise meaning — and it is the commonest words which suffer most from this defect — receive at its hands exact significations. In these days, with the instruction given by Locke, supplemented by the admirable work of Mill, it is a reproach to any science that its essential terms should not have precise meanings; yet this is precisely the condition in which political science finds itself, notwithstanding that we have had the special assistance of the writings of such men as Bentham, Austin and Sir George Cornewall Lewis. In this country especially, these writers have failed to receive attention proportionate to their merit. Hence we find such fundamental terms as "law," "government," "state," "sovereignty," and the like, used in a most general and indefinite manner, without logical consistency or proper regard for accepted objective facts. For example, throughout our constitutional history publicists and courts have agreed in declaring the divisibility of sovereignty, while at the same time accepting and enforcing federal powers absolutely inconsistent with such a principle. Again, rights moral and legal, revolutionary and constitutional, have been continually and persistently confused, until the law-abiding sentiment which the American people so often claims as its peculiar characteristic tends to disappear before the conception of individual rights independent of, and superior to, the law, and based on no more settled ground than individual discretion.

A second advantage which attends the pursuit of philosophy is that it provides not only the intellectual training which enables, but the mental disposition which inclines, one to seek for the real meanings that lie back of current phrases and conceptions. Such training and disposition are especially valuable to us who live under a popular form of government. It is a fact upon which all political observers are agreed, that a democracy is particularly prone to be influenced by broad generalizations and high-sounding words and phrases. The democratic Levia-

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than is a being whose actions are controlled as often by sentiment as by sense, and it eagerly seizes upon catchwords and aphoristic phrases with but slight reflection as to the meaning embodied in them. No one, for example, can doubt that Stephen A. Douglas obtained much support for his doctrine regarding slavery in the territories by endowing it with the seductive title of "popular sovereignty." So, too, it is not unreasonable to believe that in the phrase "free silver" the word "free" had an influence other than that which its real meaning, as used in such connection, would legitimately give it. "Do you not feel sovereignty coursing through your veins?" said a French revolutionary orator to his hearers; and I have no doubt that many of them thought that they did. It was the pride of every republican Frenchman of that time that when he looked in his glass he could see reflected a portion of a king, forgetting, as some cynic has said, that he saw at the same time the whole of a slave. Nor does the danger of being misled by mere words and expressions into false analogies and conclusions threaten the populace alone. It is one to which all of us are exposed; and it is only by the philosophic method, which looks to essential nature rather than to mere appearance or name, that we are able to keep ourselves aright.

Thus, it is one of the very first canons of political philosophy that names are not conclusive of facts. Of a given political body the political philosopher does not ask the name by which it is called, but seeks the extent of its powers and the sources of its authority. Nor does he look to prior historical facts for the determination of political essence. To him sovereignty is a matter of fact, but not such a fact as may be demonstrated by the historical conditions precedent to its establishment. It is a fact which has to be determined wholly by existing powers and competences, irrespective of the conditions out of which such powers and competences have sprung. In the analyses of the federal state, he does not feel himself precluded from further inquiry by the fact that the constitution expressly declares this or that organ or body to be sovereign; but he determines where the supreme control is placed by the

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actual distribution of powers that is provided for. Mr. Bryce, in his *Impressions of South Africa*, tells the story of a white man who, when driven by urgent need to hire himself to a native chief, preserved his *amour propre* by stipulating in the contract that he should be called "boss" by his employer. In scientific political thought the fact that a thing is called by a certain name is no more conclusive as to actual identity than was the title of "boss" as to the real status of the white man of Bryce's story. Yet it is the most common occurrence to find names used as conclusive arguments in political discussions. Webster, in his great reply to Calhoun, adverted triumphantly to the fact that the constitution called itself a constitution, and not a league or compact, as if that were conclusive of the argument.

Leaving now this point, we turn to the third specific service of political philosophy — namely, the immensely valuable aid which it affords in the interpretation of history. Political theories have ever been dependent upon, and have been evoked by, particular objective conditions; and they therefore reflect the thoughts, and serve to interpret the actuating motives, at the basis of important political movements. In the history of political theories the student is able to enter at once into a knowledge of what men in the past have really striven for, what have been their ideals. Who, for instance, could hope to understand the Puritan movement, either in England or in our own country, without a knowledge of its political theories; or expect to appreciate the history of the middle and early modern ages without a comprehension of the various views regarding the relation between church and state promulgated by mediæval writers? How are we to explain the long-continued and widespread acceptance of the doctrine of the divine right of kings, which to-day seems so essentially absurd, without knowing what that theory really meant to its believers, and what were its relations to such other antagonistic theories as those of papal supremacy and popular sovereignty?

Not only have political speculations been largely influenced by practical contemporaneous problems, but they have been to

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an almost equal extent, though less directly, controlled by what has been called the "intellectual climate" of their times. This is a point which Lecky, in the work to which reference has already been made, has strongly emphasized and has amply sustained by facts and reasoning. Beliefs which at one time have had almost universal currency are at another declared absurd — the reason for the change being, not so much that specific evidence or exact logic has overthrown the old ideas, as that the intellectual trend of the later time is toward a scepticism as regards the particular class of facts involved. Witchcraft, for example, is now relegated by all enlightened minds to the limbo of superstition and fraud; yet, as Lecky says,

> for more than fifteen hundred years it was universally believed that the Bible established, in the clearest manner, the reality of the crime, and that an amount of evidence, so varied and so ample as to preclude the very possibility of doubt, attested its continuance and its prevalence. The clergy denounced it with all the emphasis of authority. The legislators of almost every land enacted laws for its punishment. Acute judges, whose lives were spent in sifting evidence, investigated the question on countless occasions and condemned the accused.

All this occurred, not because humanity was wanting, not because ignorance was universal, not because of political or religious intolerance, but because acceptance of the miraculous was a characteristic of the thought of the age; and the belief in witchcraft died out only when, through the advance of science, the idea gradually gained ground that law holds sway throughout the physical world.

Exactly the same phenomenon is to be observed in tracing the development of political theories. Dominant political systems lose support and are supplanted by others, as the chief thought of the times changes from matters military to matters industrial, or from belief in the beneficence of authority to confidence in the inherent goodness of freedom. Arguments which at one time are deemed abundantly sufficient to sustain the divine right of kings, or the religious duty of absolute obedience, are at another spurned as not even worthy of examination.

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We wonder now that men of the learning of Locke or Sidney should have considered it worth while to expend so much effort in the refutation of the absurdities of Filmer's system. So, too, doctrines of papal supremacy, of political persecution and of natural rights have each had their heyday of prosperity, only to become blasted as the general intellectual climate assumed toward them a wintry aspect.

It seems scarcely necessary to call attention to the fact that, as an interpreter of the past, political philosophy is of especial interest to students of American constitutional history. The theories which center around the nature and the adoption of our fundamental instrument of government are well enough known, and have, in general, received extended and adequate treatment. But take also the period which, above all, has been prolific in problems of political theory — the period of civil war and reconstruction. A bare consideration of the theoretical questions involved in the operations of those years will bear evidence to the hopelessness of attempting a criticism of them without a previous study of political principles in the abstract. Starting from the theory upon which the war was waged by the Northern party, the validity of the acts of secession and the status of the seceding states, as well as that of the confederacy which they formed, had to be determined. The character of the governments of the Southern states and the validity of their acts, in both private and public law, had to be considered. The respective rights and liabilities of the loyal, as well as the disloyal, inhabitants of those districts which were in rebellion demanded determination in the civil and criminal courts alike. The status of Southern property and the powers of confiscation by our Congress had to be fixed, and a host of international problems arose for settlement. Aside from these there were, of course, the questions which arose out of the so-called war powers — questions as to their actual scope, and as to the extent to which their exercise lay, respectively, with Congress and with the President. After the close of the war, the necessity of reconstructing the governments of the states lately in rebellion involved problems still more perplexing. Was their rehabilita-

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tion as members of the federal union, with complete constitutional rights, to be based upon the "conquered territory" theory of Stevens, upon the "state suicide" theory of Sumner, the "forfeited rights" or the "full rights" theory? The utter confusion of thought which reigned supreme during these years bears eloquent testimony to the absence of true principles of political philosophy. So then, if for no other reason, abstract political thought has its abundant *raison d'être* as a guide in the study of our own constitutional history.

A fourth advantage to be derived from theoretical politics lies in its value, not to say absolute necessity, for the understanding of present European politics. From the present practical standpoint, this is probably the most important, as well as the most obvious, benefit. The one thing which, more than anything else, renders the present politics and international problems of Europe confusing to the American student is the complexity of European interstate life. At the same time that international law has risen to greatly increased definiteness and validity, and the formal rights and duties of nations towards each other have thus been made more evident, these rights and duties, definite in themselves, have become excessively difficult of application, on account of the extent to which nominally sovereign states have united under permanent constitutional unions or have subordinated the conduct of their foreign affairs, and in some cases their domestic affairs as well, to the direction of protecting powers. The complicated character of these relations is revealed by the space which is devoted to the preliminary description of them by all modern writers upon public international law. Thus, for a single example, Twiss in his *Law of Nations* devotes to this purpose one hundred and fifty pages out of a total of four hundred and fifty, and then, despite brevity and succinctness of style, leaves the subject inadequately treated. Just as in the middle ages the feudal state was the prevailing civic type, and in the early modern age the absolute monarchy, so at the present time the dominant type seems to be the composite or collective form. In the New World there are the federal

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states of Canada, the United States, Mexico, Brazil, Argentina and Venezuela. In Europe we have the federal state of Switzerland, the dual empire-kingdom of Austria-Hungary, the dual kingdom Norway and Sweden, and the great German hegemony under the leadership of Prussia. In Australasia and South Africa we discover federal movements among the British Colonies; and, finally, there is a scheme of imperial federation of all the English Colonies with their mother country.

Each of these federal types not only gives rise to problems connected with the relations of the parts to each other and to the whole, but also causes modifications in international rights and duties. In Norway and Sweden there now exists a constitutional struggle of some years' standing, which several times has carried the two nations to the very verge of war. In Austria-Hungary not only are there serious differences of opinion as to the character of the union, but Bohemia is asking for the same status that Hungary enjoys, and the juristic relation of Croatia and Slavonia to the latter country is an open question. In Germany the opposition between national and particularistic ideas is by no means quiet, and has recently found open expression in the angry declaration of the Prince of Bavaria, at a dinner at the coronation of the new Czar, that the German princes were not, as had been intimated by the representative of the German Emperor, members of his suite, but his free and equal allies. There is also active a dispute, which is by no means purely academic, as to which organ of the empire possesses the sovereign power. In Canada the Manitoba school question recently gave rise to a serious conflict of authority between the Dominion and the Provincial Government. These are some of the constitutional questions incidental to these composite forms of state life. The international problems which they occasion are equally numerous and important. In each of these composite states it is necessary to determine the extent to which the individual parts can claim international recognition and the extent to which the central power is to assume the responsibility for international obligations incurred by them. Thus, to select a

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recent case from our own history: A few years ago there occurred in New Orleans the lynching of ten or more Italians who had been tried for murder but acquitted. The Italian government demanded from the United States indemnity for the families of its murdered subjects, as well as the punishment of the persons concerned in the crime. This immediately raised several questions: First, to what extent must the national government assume the international responsibility for acts of the citizens of Louisiana? Second, if responsibility should be assumed, what constitutional jurisdiction had the federal power in bringing the guilty parties to justice? Third, if such federal jurisdiction were lacking and the Louisiana authorities themselves refused to take the necessary steps, how was satisfaction to be given to the Italian government?

More perplexing still are the international problems which arise out of the protectorates of which I have spoken. In these cases, the fact that the conduct of the foreign affairs of the protected state is subordinated to the direction of the protecting state gives rise to the greatest variety of questions as to the extent to which the guardian power is rendered responsible to other nations for the international obligations incurred by its protégé and as to the extent to which the former may interfere in the internal affairs of the latter. This relation of protecting and protected states exists in several instances in Europe, but is especially exhibited in the relations of the greater European powers with the uncivilized and semi-civilized peoples of Africa and Asia. In general, in these protectorates, nominal sovereignty and autonomy of internal administration are preserved to the protected state, the foreign relations alone being subordinated to the direction of the protecting power. Such a type is thus distinguished from those in which there is practical incorporation of the territory of the weaker in that of the stronger power, as well as from those in which certain provinces of one power are administered by another — as, for example, Tunis by France, Bosnia and Herzegovina by Austria, and Cyprus by England.

Were it necessary, the list of these questions arising out of

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the complexity of the interstate relations of the present day might be greatly lengthened. But a number sufficient for our present purpose has been given. It is not difficult to see that, if the various conditions and problems are to receive a satisfactory classification and interpretation, and if general principles are to be deduced in accordance with which future complications are to be judged, the essential foundations and characteristics of sovereignty must be examined. We must determine what powers and attributes are incidental to the possession of sovereignty; whether its existence is an infallible and necessary test of statehood; to what extent the exercise of its powers may be delegated without parting with its possession; the distinction between governments *de facto* and governments *de jure;* whether states may be created by international compact; whether the origin of political authority in general is susceptible of a juristic interpretation; what is the essential character of positive law and whence its validity; and to what extent so-called international law is binding or is law at all *in sensu strictiore.* All of these are, of course, problems for the solution of which recourse must be had to abstract political philosophy.

Sir Frederick Pollock, in his *History of the Science of Politics*, mentions still another advantage to be derived from political speculation — namely, that of exposing falsehoods of incorrect theories. Thus he says:

> To the persons who deny the necessity or possibility of philosophy, it is a sufficient answer that at all events critical philosophy is needful for the exposure of philosophies falsely so called; and in the same way political science must and does exist, if it were only for the refutation of absurd political theories and projects.

In illustration of this he points to the Declaration of the Rights of Man by the French Constituent Assembly.

> This consists of general statements of what men, as men, are entitled to, and may justly demand. If true, the statements are of the utmost importance to politicians and legislators; if false, they are highly mischievous.

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True or false, they had a great influence, and therefore cannot be simply disregarded; and it is scientific criticism which must establish or refute them.

The list of benefits to be derived from the pursuit of pure political philosophy may be closed by mentioning one which, for some reasons, should have been placed first of all. I refer to the pure intellectual delight to be obtained from the pursuit of any speculative inquiry. Philosophy is the search for the essentially true, and alone is able to satisfy the mind's insatiable demand for the whence, the how and, to use a scholastic term, the whatness or *quiddity* of human phenomena. Its results are, therefore, satisfying apart from their practical value, and its method enticing by giving play to our highest intellectual faculties. At all times political speculation has occupied an important place in the general field of philosophy; and has attracted the attention of the greatest minds, from Plato and Aristotle, Augustine and Aquinas, Locke and Spinoza, to Kant and Hegel, Savigny and Austin, Jefferson and Mill. And, when we reflect upon it, what can be more provocative of inquiry than the nature of the corporative control to which all men submit in one form or another, and under which and because of which they have been able to progress from the lowest stages of savagery to the highest attainments of civilized life? What wonder that, apart from the pursuit of practical ends, the greatest minds should have been stirred to its critical examination!

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ARE OUR LEGAL-TENDER LAWS *EX POST FACTO?*

NO principle of legal interpretation is better established or has received a wider acceptance than this, that the intention of the framers of a legal instrument is decisive of its meaning and ought to be held inviolable, regardless of technicalities. In other words, the misuse of a technicality ought not to defeat the plain intention of the framers of a legal instrument. By this principle I propose to try the question at the head of this article. Waiving for the present the question whether the phrase *ex post facto* had become a technical or restricted term in good legal usage prior to the formation of our national constitution, it is proper to decide: What did the framers of the constitution intend by the term?

There are in the constitution two provisions that contain the term *ex post facto*. Each was adopted by the votes of seven states against three. It is demonstrable that, when the convention first adopted these provisions, it understood the term to be properly applicable to any retrospective or, to use a better word, retroactive law.

In the provision of Article I, Section 10, that "no state shall pass any bill of attainder or *ex post facto* law," the second expression was especially aimed against any law impairing the obligation of preëxisting contracts. The convention was considering a motion by Mr. King to forbid interferences in private contracts by state legislatures. Objection being raised to the word "interfere," as carrying the prohibition too far, a motion was made to substitute the term "*ex post facto*," so that the clause as amended read thus: "No state shall pass any bill of attainder or *ex post facto* law."[1] This wording, as a substitute for "no state shall pass any law interfering in private contracts,"

[1] Madison's Journal of the Debates, Gilpin's ed., pp. 1443, 1444; Elliot, V. 485.

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would have been wholly irrelevant, if *ex post facto* had been regarded as applicable to "criminal law and criminal proceedings only." It is manifest that the amendment must have been accepted by the convention as in line with the original motion. So far as my knowledge extends, no person of eminence or authority has ever questioned this position. Indeed, it has been admitted by high authority, even among those who hold to the constitutionality of our legal-tender laws, that Article I, Section 10, of the constitution was originally intended to forbid the impairment of the obligation of contracts by state legislation.

But it is equally manifest that the original intention of the convention in adopting Article I, Section 9, "no bill of attainder or *ex post facto* law shall be passed," was to forbid the impairment of the obligation of contracts by national legislation. For the amendment of the motion to prohibit the states from "interfering in private contracts" was borrowed from Article I, Section 9, without change, except to make it apply to the states.[1] If the phrasing of Section 9, "no . . . *ex post facto* law shall be passed," had been applicable to retroactive criminal law only, it would not have been borrowed for use against retroactive civil law. Since no one in the convention saw any incongruity in the second use of the borrowed phrase, the original sense of the expression is beyond reasonable dispute.

Not only was the provision in Section 10 borrowed without essential change from Section 9, but the act of borrowing was accompanied with an express interpretation of the nature and design of the words borrowed. In answering objections to the word "interfere," as carrying the prohibition too far, "Mr. Wilson replied that retrospective interferences only are to be prohibited." Mr. Madison replied: "Is not this already done by the prohibition of *ex post facto* laws, which will oblige the judges to declare such interferences null and void?"

It is obvious that Mr. Madison referred to Section 9, and he plainly regarded it as prohibiting retrospective interferences in

[1] See Madison's Journal, Session of August 28, Chicago ed., 1893, p. 621; or Gilpin, 1444; also Elliot, 485.

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private contracts. This reference to and interpretation of Section 9 suggested the amendment I have spoken of, and occasioned its adoption by so large a majority of the states. For, in immediate response to Mr. Madison's remarks, Mr. Rutledge moved, instead of Mr. King's motion, to insert "nor pass bills of attainder nor *ex post facto* laws," as it is in the printed Journal;[1] or, as it is in Madison's Journal, "nor retrospective laws."[2]

The fact that Mr. Madison uses "retrospective laws" and the printed Journal "*ex post facto* laws," in recording the motion of Mr. Rutledge, is additional proof that "*ex post facto*" and "retrospective" were then regarded as equivalent terms, not by Mr. Madison alone, but also by the convention itself. Further proof is also found in an event of the following morning session of August 29. Mr. Dickinson

> mentioned to the House that on examining Blackstone's *Commentaries*, he found that the term *ex post facto* related to criminal cases only; that they would not consequently restrain the states from retrospective laws in civil cases, and that some further provision for this purpose would be requisite.[3]

It is plain that Mr. Dickinson supposed that the convention had intended by the phrase "*ex post facto* law," in Section 10, to "restrain the states from retrospective laws in civil cases," but had made a mistake in the use of a term. The fact that Mr. Dickinson's understanding of the object of the provision passed without dissent from any one, is not consistent with the idea that he had made a mistake, at least in this respect.

The question now arises: Did the convention, by any subsequent action, expressly or impliedly renounce, or even qualify, the original purpose of either provision in the constitution containing the phrase *ex post facto?* This double question must be answered by a decided negative. Without the knowledge of Supreme Court decisions, one would be at great loss to know what to fasten upon, as even suggesting a change of

[1] See Elliot, I, 271. Compare Elliot, I, 257.
[2] Gilpin, 1444, Chicago ed., p. 621.
[3] Madison's Journal, Chicago, 1893, p. 625; Gilpin, 1450; Elliot, 488.

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mind on the part of the convention respecting either of the two provisions under consideration. Did some shrewd advocate persuade the court that Mr. Dickinson's statement of his notion, respecting the proper use of *ex post facto*, was an end of all mental question or dissent in that convention of well-trained, eminent, self-reliant lawyers? It is certainly not reasonable to suppose that they would confess to a misunderstanding and misuse of so venerable a term as *ex post facto*, on the mere momentary impression of a man in no way superior to themselves. They would want more evidence than Mr. Dickinson had to offer. I say "momentary impression"; for the recess of the convention for a single night could have given Mr. Dickinson opportunity for only a superficial examination. Or if, on personal investigation, the other members had become conscious of having committed a blunder, would they, merely for fear of being chargeable with ignorance, have renounced, without one contending word, an object of great importance, not only to themselves, but also to coming generations, and an object for which some of them had contended earnestly? Would they not have substituted some other term for "*ex post facto*," in order to secure that object?

The observation of Mr. Dickinson does not appear to have had any important effect upon the collective mind of the convention, either at the time it was spoken or afterwards. So far as can now be known, it influenced only three men, and one of these in the way rather of doubt than of conviction. After the constitution was adopted in substance, and with careful wording but without careful arrangement, it was referred to a committee on style and arrangement, of which Gouverneur Morris was the working member. Of his own will he added an explanatory clause after "*ex post facto* law," in Article I, Section 10, in the following words: "or law altering or impairing the obligation of contracts."[1] Having received the approval of the committee, this was accepted by the convention, with the omission of the word "altering."

As this committee was not empowered to add any new or

[1] Gouverneur Morris, by Sparks, III, 323.

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distinct provision to the constitution, and as the addition in question provoked no discussion or opposition in the convention, but passed apparently without a vote, it is obvious that it added no essential idea to the constitution, but was regarded by every one as simply explanatory of the especial object which the convention had in view in its first action. It is hardly susceptible of a doubt that, if the report of the same committee had included the same explanatory clause in Section 9 also, it would have passed, *nemine contradicente*. That it did not there appear is explained by the fact that Gouverneur Morris had objected to the adoption of this provision in the first place, regarding it as "unnecessary."[1]

It is worthy of consideration that, *prior* to the adoption of this explanatory clause, Colonel Mason moved to strike out of Section 9 the words, "nor any *ex post facto* law." He thought it not sufficiently clear that the prohibition meant by this phrase was limited to cases of a criminal nature; and "no legislature ever did or can altogether avoid them in civil cases."[2] Colonel Mason's motion was seconded by Mr. Gerry for just the opposite reason, lest the prohibition should *not* extend to civil cases. This motion received a unanimous negative.[3] If the convention had changed its mind respecting this prohibition and at this time had desired that it should extend to cases of a criminal nature only, was not this a favorable opportunity? Therefore, this vote cannot be explained on the supposition that the convention had, in agreement with Colonel Mason, become apprehensive of the unwisdom of restraining Congress from enacting laws impairing the obligation of contracts. For certainly it is much more credible that the delegates of three states should have concluded to give up their ineffectual opposition than that the delegates of seven states should have changed their minds and renounced their purpose upon a mere notion without evidence. This vote *not* to strike out "*ex post facto* law" from Section 9, considering the reasons offered to the contrary, together with the fact that

[1] See Madison's Journal, Session of August 22, Chicago ed., p. 586.
[2] Madison's Journal, p. 727. [3] *Ibid.*, p. 728.

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no one offered any amendment to Colonel Mason's motion, was equivalent to a vote that said provision should remain with its original intent unchanged. This vote, occurring very shortly before the acceptance of the explanatory clause of Gouverneur Morris, explains why the motion of Mr. Gerry, offered immediately afterward, to insert the same explanation in Section 9, received no second — a fact that was forced into unnatural service in the opinion delivered by Justice Gray in the case of Juilliard *vs.* Greenman.[1] For it was not to be expected that, after the convention had just voted unanimously that said provision should remain unchanged, they would return to it again.

No member of the Federal Convention was better qualified to declare what was the final purpose of the convention than James Madison. In Number 44 of *The Federalist* Mr. Madison approves of the prohibition of the issue of bills of credit by the states, and declares that the emission of such bills by the states in preceding years "constitutes an accumulation of guilt which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice of the power which has been the instrument of it." Inasmuch as the Federal Convention, in its session of August 16, refused to grant Congress the power to emit bills of credit, and inasmuch as all bills of credit of that time were calculated to impair the obligation of contracts, the words of Madison, quoted above, have a decisive effect on this question. For the idea of "an expiatory sacrifice on the altar of justice" of that power is utterly repugnant to the idea of a mere transfer of the power to the national government. Hence, Madison could not have known of any action, or default of action, subsequent to August 16, virtually reconsidering and reversing the vote to refuse Congress the power "to emit bills." But "bills of credit" of that time meant a tender for public and private debts. They did not mean promissory notes, either public or private, given as evidence of indebtedness, but not intended for circulation. They meant legal-tender promissory notes, notes intended for circulation, *a currency*. If there was a bill of credit of that decade without the legal-tender quality, it

[1] 110 U. S. 421.

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had what was equivalent to it — a circulation enforced by other penalties. There was not a note or a bill existing at that time so secured as to be immediately exchangeable into coin at its face value, and therefore with a circulation *free*. This fact decisions of the Supreme Court can neither make nor unmake, and this fact determines the constitutional sense of "bill of credit."

In the same number of *The Federalist* Mr. Madison says: "Bills of attainder, *ex post facto* laws and laws impairing the obligation of contracts, are contrary to the first principles of the social compact and to every principle of sound legislation." These and his subsequent words show that Mr. Madison was positive that the constitution had not left in the hands of Congress, either through default or through conscious intention, either by implication or expression, the power or right to enact laws impairing the obligation of contracts, any more than that it had given Congress the power to enact bills of attainder.

The evidence, thus, is very strong that the convention did not accept the view of Mr. Dickinson respecting the use of *ex post facto*, and that it remained to the end in its first mind and purpose respecting both provisions in the constitution containing that term. Let it be conceded, for the moment, that Mr. Dickinson was right, and that the convention had made a mistake in the use of *ex post facto;* yet the fact remains clearly established that the convention did use the term in both provisions with unchangeable intent to forbid the enactment of retroactive laws, civil as well as criminal, and particularly any law impairing the obligation of contracts. This fact ought to have caused the Supreme Court to sustain this interpretation and hold it inviolable, in accordance with that just and universally accepted principle stated at the beginning of this article.

In reality, however, Mr. Dickinson was wrong and the convention was right respecting the proper use of this term. In other words, the notion that *ex post facto* had been restricted to criminal cases, prior to the formation of our national constitution, rests on no valid basis whatever. So far as I can learn, the only authority for this alleged restriction is Blackstone. Jus-

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tice Chase, in Calder *vs.* Bull,[1] makes many references to authorities, but quotes nothing definite or decisive as to what was the good legal usage of this term when the constitution was formed. Mr. Dickinson said that "in examining Blackstone's *Commentaries* he found that the term *ex post facto* related to criminal cases only." He could not have carried his examination very far, for Blackstone does not father this notion. The only passage in the *Commentaries* that we can possibly suspect of producing such an impression is in the Introduction, Section 2, where he speaks of "a rule prescribed." In commenting on the word "prescribed" and justifying the principle that all laws should be prescribed, *i.e.*, should operate *in futuro*, he cites as an example of the violation of this just principle the making of *ex post facto* laws relating to crimes. It is evident that Blackstone here applies the term *ex post facto* to criminal law, simply and solely because he wished to cite a method of "ensnaring the people" more unjust and cruel than that of the infamous Caligula just spoken of. But neither here nor elsewhere does Blackstone declare that the term *ex post facto* was, or ever had been, "limited to laws relating to crimes and criminal proceedings." From this passage Mr. Dickinson drew nothing but his own inference, and one not even natural, much less unavoidable. I say not even natural; for doubtless every lawyer in the convention had read Blackstone, but not another man of them had thought to draw the same inference. And few, if any, will protest that too high praise is given to that remarkable convention, when it is said that it contained many lawyers of eminence and several as able and erudite as ever sat on the bench of the United States Supreme Court. But Blackstone uses *ex post facto* more frequently of matters relating to property rights and civil proceedings than of matters relating to crimes and criminal proceedings.[2]

In Kent's *Commentary*,[3] concerning Calvin's case, may be

[1] 3 Dallas, 386.

[2] See Cooley's Blackstone, vol. i, bk. ii, ch. 20, pp. 308, 334; ch. 22, p. 367; also ch. 16, p. 454, concerning which it is proper to say that the Roman law of marriage was an *ex post facto* law, and Blackstone so speaks of it as if he had applied the term to the law itself.

[3] Vol. ii, pp. 55, 56.

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found another example in good usage of the application of *ex post facto* to civil cases. The "matter *ex post facto*," as used by Lord Chancellor Ellesmere in that case, had reference to the law of descent respecting the crowns of England and Scotland. By these quoted words the Chancellor declared that the law of royal descent could not in any event acquire a retroactive power or be so applied as to work the forfeiture of vested rights of property. This shows most clearly that in 1609 A.D. the highest legal authority in England had not become aware that *ex post facto* had been "long restricted to crimes and criminal proceedings." Between this time and that of Blackstone's *Commentaries* we have a deliverance from the King's Bench, in 2 Lord Raymond, 1352:

> Raymond, Justice, called the Stat. 7 Geo. I, Stat. 2, par. 8, about registering contracts for the South Sea stock, an *ex post facto* law, because it affected contracts made before the statute.

This is quoted from the opinion delivered by Justice Chase, which is held to have given a finally authoritative definition of *ex post facto* as restricted to criminal cases.[1] But his citation plainly refutes the judge's own conclusion.

In the official letter of Roger Sherman and Oliver Ellsworth, recommending the constitution to their state, Connecticut, we have not only an example in good usage of the application of *ex post facto* to civil laws, but also the testimony of two very competent and trustworthy witnesses to the intent of the convention in the use of the term.

> The restraint on the legislatures of the several states, respecting emitting bills of credit, making anything but money a tender in payment of debts, or impairing the obligation of contracts by *ex post facto* laws, was thought necessary as a security to commerce, in which the interest of foreigners as well as the citizens of different states may be affected.[2]

This letter was written nine days after the convention closed. Roger Sherman was present at every session of the convention

[1] Calder *vs.* Bull, 3 Dallas, 392.
[2] Elliot, I, 491 *seq.*

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and prominent in all its discussions. Oliver Ellsworth was also regular in his attendance on the sessions of the convention. No man who knows the high character of these men, their eminent attainments and the distinguishing honors conferred upon them, would question their veracity or their competency as witnesses in this case. They certainly must have known what was the prevailing sentiment of the convention respecting the proper use of *ex post facto* and its constitutional intent. John Rutledge was educated at Temple Bar, London, was honored by the highest offices in the gift of his state, and was for several years a justice of the United States Supreme Court. He used "*ex post facto* law" as a substitute for a "law interfering in private contracts."[1] James Madison, preëminent in the knowledge of the law and the principles of beneficent government, called by his generation an oracle on all constitutional questions and the "Founder of the Constitution," asked the Federal Convention itself if it did not mean by "*ex post facto* law," in Article I, Section 9, to prohibit retrospective interferences in private contracts, and received a virtual answer in the affirmative by its subsequent action.[2] Good usage can never be proved in any case, if these eminent examples do not prove that the application of *ex post facto* to retroactive civil law was good legal usage in the time of the Federal Convention.

Are not our legal-tender laws *ex post facto?* Did they not "affect contracts made before the statute," in the language of Justice Chase? Did they not "impair the obligation of contracts," in the language of the constitution? An affirmative answer cannot be expressed in plainer language than that employed by Justice Samuel Freeman Miller, an authority against whom objection cannot with a very good grace be raised. I quote from Justice Miller's *Lectures on the United States Constitution*, page 530:

So the statutes which declared that the treasury notes of the United States should be a lawful payment of any debt due to the government or between individuals, except for customs duties, necessarily

[1] Gilpin, 1450; Elliot, 488.
[2] Gilpin, 1444; Elliot, 485.

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impaired the obligation of contracts, because at the time the contract was made no man was bound to take anything but gold and silver. The contract was to pay coin dollars, and, therefore, when Congress authorized the debtor to pay in legal-tender treasury notes, it impaired the obligation of his contract.

In his dissenting opinion in the case of Hepburn *vs.* Griswold,[1] Justice Miller had said, speaking of the act of February 25, 1862: "Undoubtedly it is a law impairing the obligation of contracts." And the opinion of the court in that case contains these words:

> We confess ourselves unable to perceive any solid distinction between such an act and an act compelling all citizens to accept, in satisfaction of all contracts for money, half or three-quarters or any other portion less than the whole of the value actually due, according to their terms. It is difficult to perceive what act would take private property without process of law, if such an act would not. We are obliged to conclude that an act making mere promises to pay dollars a legal tender in payment of debts previously contracted, is not a means appropriate, plainly adapted, really calculated to carry into effect any express power vested in Congress, that such an act is inconsistent with the spirit of the constitution, and that it is prohibited by the constitution.

It is true that this noble decision was reconsidered and reversed; but the force of truth and justice in its words never has been and never will be impaired, while the history of that reconsideration and reversal is a page that the responsible actors therein might well wish could be sealed forever.

There is one word in the above quotation from Justice Miller that I would emphasize — the word "necessarily." The legal-tender enactments of 1862 and 1863, he said, "necessarily impaired the obligation of contracts." In the opinion delivered by Justice Gray in the case of Juilliard *vs.* Greenman,[2] the legal-tender enactments of those years were repeatedly represented as only *incidentally* impairing the obligation of contracts, as if this, even if it were true, would exempt them from the application of the prohibition in Article I, Section 9, of the constitu-

[1] 8 Wall, 603. [2] 110 U. S. 421.

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tion. That instrument, be it noted, makes no exception in favor of laws that only incidentally impair the obligation of contracts. But it is astonishing that any intelligent man should argue that the impairment of the obligation of contracts was only *incidental* to the nature and effect of the legal-tender acts of said years, when the depreciation of the notes thereby authorized to be issued was a foregone conclusion at the passage of the first act, February 25, 1862, and was an accomplished fact at the time of the joint resolution of January 17, 1863, and still more so at the passage of the act of March 3, 1863. The only reasonable object of a legal-tender clause is to impair the obligation of contracts previously made and thus to force the circulation of the notes. The legal-tender clause is of no use and is never put into exercise, except when it does impair the obligation of contracts. The legal-tender acts referred to above were intended to authorize every debtor in this country, whose obligation had been contracted prior to February 25, 1862, and would fall due before the legal-tender treasury notes came to par with gold, to defraud his creditor. So long as the notes were depreciating, other contracts also were impaired by the acts. The English common law has guarded nothing with greater zeal and vigilance than the sacredness of contracts, excepting human life itself. Indeed, this care has been found necessary to make human life itself secure. To trample on this law is no light offense. It is in vain to argue that the violation of it was necessary. It never can be necessary either to do or to authorize the doing of a single act of injustice. The constitution never permitted this, much less authorized it.

Laws impairing the obligation of contracts being embraced in the prohibition of Article I, Section 9, under the terms "*ex post facto* law," as explained by the constitution itself, by *The Federalist* and by the usage of our English ancestors long previous to the formation of the constitution, the conclusion is unavoidable that our legal-tender laws are *ex post facto*, and that Congress in enacting them violated an express provision of the constitution.

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Since Justice Miller was the first and foremost advocate in the Supreme Court of the constitutionality of the legal-tender acts, certain passages in his *Lectures on the Constitution* assume much importance.

> No state is permitted to make anything but gold and silver coin a legal tender in payment of debts. The object of this provision was to correct what had grown to be an enormous evil at that time, that of a debased paper currency, *in connection with the further provisions* against any state passing any *ex post facto* law, or law impairing the obligation of contracts, in order to prevent the scaling of debts, or the authorization of their payment in a depreciated and worthless paper. [Page 525.]

The above italics are mine; for I wish to call especial attention to the fact that Justice Miller plainly regarded the clause in the constitution, "No state shall pass any . . . *ex post facto* law," as *one* of the "provisions to prevent the scaling of debts." In other words, he plainly admits that the clause, "or law impairing the obligation of contracts," is simply explanatory of "*ex post facto* law"; for he makes the object of the two provisions precisely the same.

In the same lecture he makes some further admissions, to wit:

> One of the earliest of the constitutions proposed for the confederated states contained some of the items mentioned; for instance, as to coining money, emitting bills of credit and passing *ex post facto* laws. That branch of the instrument [Art. I, Sec. 9] had been gone over and committed to the charge of the committee on revision and style. For the purpose of preventing any interference with contracts the convention had relied very largely upon the clause prohibiting the passage of any *ex post facto* law. [Page 526.]

If the convention "relied very largely upon the clause prohibiting the passage of any *ex post facto* law" by the states, for accomplishing its "purpose of preventing any interference with contracts," what could have been its purpose and reliance six days before, when it prohibited the passage of any "*ex post facto* law" by Congress. But Justice Miller continues:

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The original draft had nothing in it about the impairing of the obligation of contracts, when it was submitted to the committee. It was supposed that the expression "*ex post facto* law" necessarily included all laws bearing on past transactions, and that, therefore, with this prohibition inserted against the passage of *ex post facto* laws, no state could pass any law impairing a contract already made. [Pages 526–527.]

"Necessarily included all laws bearing upon past transactions" expresses a very firm conviction on the part of the convention respecting the proper use of *ex post facto*. If it had this conviction so late as "when the original draft was submitted to the committee," the observations of Mr. Dickinson could have made only a very superficial impression. And Justice Miller gives us no evidence to show that the convention, upon receiving the committee's report, lost its firm conviction respecting the legal import of *ex post facto*, and left its purpose in Article I, Section 9, to rely on a broken reed.

It is a just and widely accepted principle that, when a term appears with doubtful meaning in one part of a legal instrument, it is to be interpreted by that same term, if used elsewhere in the same instrument with clearer meaning or with explanatory words. Admitting that there could have been reasonable doubts as to the meaning of *ex post facto* in Section 9, the Supreme Court disregarded this just principle, in not applying to this section the conceded explanation of *ex post facto* in Section 10.

An eminent writer on law has said that "the best aid to the proper understanding and interpretation of a law is a thoughtful and patient examination of the purpose of its enactment." What purpose or object could the convention have had in view in a provision exclusively prohibiting the enactment of retroactive criminal laws? Was there any awful danger looming on the political horizon of 1787 which demanded such a safeguard? Had the Continental Congress been guilty of any such unjust legislation, or shown a disposition thereto? Were not such criminal laws merely an ancient and obsolete species of oppression? At any rate, we hear of no outcry from that time or

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generation against either the colonial or the state legislatures, the British Parliament or the Continental Congress, on such grounds. But what was the one giant evil of that time, more frequently spoken of in the Federal Convention than any other political evil, more fertile of confusion and anarchy than any other one thing, more pervasive in its baneful influence through the whole body of the people, extending in its grievous effects to the humblest and most obscure, as well as to the highest? Beyond all successful contradiction, it was the impairment of the obligation of contracts by retroactive statutes. What reason had the Federal Convention to suppose, as it did suppose, that it had raised an effectual barrier against such pernicious measures, if it had merely taken the power to enact such statutes out of the hands of state legislatures and placed it in the hands of Congress? Would the mere transfer of the power to make such laws take the poison out of them? Is there such a heaven-wide difference between a small state and a large one that what was unrighteous for the former to do is righteous for the latter to do, or that what was formerly ruinous becomes beneficial by mere increase of size? Now that the Supreme Court has broken down the barriers raised by the Federal Convention against the enactment by Congress of retroactive civil laws, what bar is there against congressional enactments of installment laws, barren-land laws, laws for the occlusion of courts, legal-tender laws *ad infinitum*, and laws making criminal the future refusal to accept government paper offered for the discharge of debts? Every one of these abominations had appeared in state legislation within the recent memory of every member of the Federal Convention. Is it credible that the convention could have intended nothing more than to take the power to enact such laws from the states and hand it over undiminished to Congress? There is nothing in the abstract conception of the case that could have led the convention to suppose that this legislation would have any different result under congressional action from what had been observed under state and colonial action. And the logic of events has fully exhibited to the generation now passing off

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the stage the fact that legal-tender laws have lost none of their fertility in evil fruitage. Witness the financial history of this country during the years between 1863 and 1873, with their wild speculation, extravagance, dishonesty, ruined fortunes and embittered lives.

The consideration of the purpose or object of the convention yields no support for the idea that the provision in Article I, Section 9, against *ex post facto* laws was intended to forbid retroactive criminal laws only. We are therefore obliged to conclude that, when the Supreme Court pronounced our legal-tender laws constitutional, it trampled not only on an express prohibition of the constitution but also on every sound principle of legal interpretation. In an aggravated sense was this true in the last legal-tender decision, 110 U. S. 421. Why should we any longer proclaim to the nations an intention to be dishonest at the first moment of financial perplexity or national disaster? Why should we continue to hold out to the corrupted classes in our own land, ever liable to discontent and tumults, a temptation to be dishonest, to scale and repudiate honest debts? Why not banish to an impassable distance that disturbing, corrupting, cankerous element in our national system of finance, the legal-tender treasury note? Why not make the issue of any similar note an utter and everlasting impossibility? Is it because the Republican Party is afraid to do the manly thing — acknowledge that it committed an error in the greenness of its youth? It is a manly thing, when one has erred, to acknowledge it and undo the evil, so far as power will permit.

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PATTEN'S STUDY OF ENGLISH THOUGHT.[1]

THE title which Professor Patten has given to his book is rather too broad for the contents. He studies the development of English thought only during the last three centuries, and he studies but a portion of the thought of this period. The writings that he considers in detail are those of Hobbes, Locke, Mandeville, Hume, Adam Smith, Malthus, Ricardo, Bentham, the two Mills and Darwin. The movements that he examines are Puritanism, Deism, Methodism, Utilitarianism and the Oxford movement. That his book covers only a portion of the thought of the period is most clearly seen, when the reader observes the way in which Hobbes, Locke, Hume, Bentham and Darwin are handled, and the stress that is laid upon the points at which these men's writings affected economic, moral or religious conceptions. The development of political and legal ideas is almost ignored. It is true that the English have expressed their political and legal ideas more fully and more clearly in their institutions than in their literature; but the ideas exist, and they represent the chief contribution which England has made to modern civilization. The development, for example, of cabinet government, the completion of a system of local self-government and the perfecting of a fair process of trial for crime have been of greater importance to the modern world than the construction of a classical political economy or the multiplication of Protestant sects; but the reader is nowhere reminded that these institutions took final form in the period under examination, nor is any attempt made to disengage the ideas which they embody.

Professor Patten's sub-title, on the other hand, is too narrow; for his interpretation of English thought is not purely economic — at least not in the sense in which the term is commonly employed. In his theory, economic, æsthetic, moral and religious sentiments and ideas are primarily produced by the environment; the environment consists of "requisites"; and "these requisites are the goods for

[1] The Development of English Thought. A Study in the Economic Interpretation of History. By Simon N. Patten, Ph.D., Professor of Political Economy, Wharton School of Finance and Economy, University of Pennsylvania. New York, The Macmillan Company, 1899. — xxvii, 415 pp.

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which men strive or the means by which they may avert evils" (Preface, p. vi). But on page 14 and elsewhere these requisites are restated as "the securing of pleasure and goods" and "the avoidance of pain and evils." Professor Patten repeatedly tells us that these requisites or "objects for which men strive" are economic, but it is not until we reach page 334 that any attempt is made to explain this broad use of the adjective. Here we are told that

> to secure pleasure [men] must have food and must conform to the conditions of its production. Pain is so largely the effect of production that other causes can be overlooked, and to avoid pain men must coöperate in production in ways that involve division of labor.

It may be remarked, in reply, that while a starving man cannot have much pleasure, eating is by no means the only pleasure for which men strive; and it will hardly be admitted that labor, even of the crudest sort, produces so large a part of the pain in the world that other causes may be overlooked. Professor Patten himself, in studying the pleasures which men strive to gain and the pains which they endeavor to avoid, does not confine himself within the narrow limits indicated in the above citation, and his interpretation of human progress and of human thought is not purely economic. "The field of pleasure and pain," he himself says, "is the field of the social sciences" (p. 334); and his interpretation of history is, in fact, sociological.

It should be noted, further, that while, in Professor Patten's theory, all human sentiments and ideas are produced in first instance by the environment, they are by no means changed with every change of environment. On page 44 he indeed tells us that "the ideas of each epoch do not grow out of the similar ideas of the preceding epoch, but are formed anew from the new conditions"; and he deduces from this premise the doctrine that "a history of æsthetic, moral or religious thought, each taken independently, is impossible," and that "history, to be valuable, must be studied in epochs" (p. 45). But this is only his emphatic way of presenting a half-truth — an error to which, as he tells us on page 143, all writers, even the greatest, are prone. What he really thinks and repeatedly affirms is that sentiments and ideas produced in one environment tend to persist through other environments, and that the social life of a people in any given epoch is determined partly by their traditional sentiments and ideas and partly by their momentary environment.

It is to the elaboration and illustration of this general theory that the author devotes his first chapter; and in accordance with this

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theory his examination of English thought in the seventeenth century is preceded by a second chapter on the "Antecedents of English Thought." This is practically an interpretation of mediæval history, or at least of certain selected phases of mediæval history. Here we find sweeping generalizations regarding primitive society, the early Germans, the Roman Church, the inventions and discoveries of the fifteenth century, the Reformation and the counter-reformation. It is in this chapter, with its wide range of survey, that the author most clearly exhibits his idiosyncrasies — an extraordinary facility in the construction of theories and an unfortunate tendency to force history into harmony with his hypotheses. At the close of his first chapter he divides thinkers into two classes: those who move on an "upward curve," from observed facts to generalizations, and those who move on a "downward curve," seeking "the facts they need" to substantiate their convictions. Thinkers of the latter class are described as philosophers; those of the former class are, rather oddly, termed "economists." According to this distinction, Professor Patten is a philosopher on the downward curve, but it must be said that he does not get very far down. His view of historic facts, at least, is distant and inexact.

In speaking of primitive society, he tells us that crime was punished by a particular person, the next of kin, while "vice" was punished by the whole group (p. 93). The facts, however, are that torts (including some offenses which have since come to be regarded as crimes) were viewed as offenses against all the wronged party's kindred and were avenged originally by the clan; while offenses felt to be dangerous to the whole community were punished by the whole community. The only basis for the statement that vice was punished by the community is this: that certain overt acts, many of which we do not to-day regard as crimes, were declared by the priests to be sins which, unless expiated, would bring divine vengeance upon the whole community. This category of sins, however, was both broader and narrower than our (essentially modern) concept of vice — broader, because it included transgressions of purely formal religious rules, and narrower, because it covered but a slight portion of the field of vice.

To the clan is assigned (p. 109) a position which only conquering clans have held; and on page 123 we find the statement that "when clans were united into a nation they lost their fighting qualities." Clans, however, have usually reached their maximum fighting capacity and made their most important conquests in tribal unions under mili-

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tary kings; and if such unions are not "nations," it is hard to say what unions the author has in mind. Here, however, as elsewhere, it is a little difficult to determine the precise stage of political progress to which he is referring. On page 112, for example, a discussion is opened regarding the ideas of "primitive men," and the reader only gradually discovers that the men referred to are men of the middle ages (p. 115).

On pages 46 *et seq.*, a contrast is drawn between ancient and modern nations which seems to be wholly fanciful. We are told that ancient nations developed and decayed as units; while in modern nations class takes the place of class, and the nation persists through "epochs as distinct as were the national civilizations in earlier times." We are also informed that "the England of to-day differs nearly as much from the England of the last century as Rome differed from Greece, or Egypt from Assyria"! This is simply an illusion of distance, uncorrected by any sense of historical perspective. In Roman history, for example, the very names of patricians, plebeians, nobles and knights, of Romans, Latins, Italians and provincials, recall the rise and decay of class after class and race after race through a longer period than any modern nation has yet traversed; and if we knew as much of Egyptian and Assyrian history as we know of Roman, it is probable that we should find in these oldest civilizations the same mode of progress which our author declares to be modern.

Among the early Germans, we are told, there was "no age limit after which sons and daughters became their own masters" (p. 76). This statement is technically true, but it is misleading. In early German society, as in other early societies, women never became their own mistresses; but the German man, unlike the Roman, escaped from paternal authority when he married and kindled his own hearth-fire. The suggestion that the German migrations were "actuated not by starvation but by greed" (p. 66), is, I think, hardly more than a quarter-truth. Before the Germans learned to manure their land and to vary their crops, relatively vast areas were insufficient for the support of a comparatively sparse population; and all the evidence goes to show that pressure from behind and the prospect, at least, of starvation were the chief forces that drove the Germans over the Roman borders.

In his description of the part played by the Roman Catholic Church in the middle ages Professor Patten seems to me to be at his best. The picture that is drawn of the economic activity of the monastic

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orders is excellent; and here, at least, the term "economic" is used in the ordinary sense. It is not true, however, that the supremacy of the church in Northern Europe was the result of its economic activity (p. 70); its supremacy was, at the most, strengthened and expanded by this activity. It is not true that the church was ever "unconsciously" cosmopolitan. If there is anything of which the Roman Church has been conscious, through every phase of its history, it is precisely its supra-national attitude. Catholicism was the mediæval term for cosmopolitanism. It is not fair, finally, to accuse the Roman Church of even a relative indifference to "vice," as distinguished from crime (pp. 91 *et seq.*). The criminal portion of the canon law represents the most thoroughgoing effort to suppress immorality that the world has ever seen. The contrast which Professor Patten draws between the unmoral attitude of the Roman Church and the deep-rooted moral instincts of the German people (pp. 94 *et seq.*) is, I think, fanciful on both sides. The reaction against the corruptions in the church which led to Protestantism was not an expression of German morality; it was, at the outset, a re-assertion of Catholic morality.

In the domain of economic history Professor Patten should be more exact; but I am sure that, on pages 78 *et seq.*, he under-estimates mediæval trade over the land routes from Italy to Northern Europe, understates the economic development of North Germany prior to the fifteenth century, and exaggerates the effect upon North Germany of the development of sea trade with the Mediterranean countries. I am equally sure that the picture he gives, on page 127, of English civilization before the Puritan reformation is a caricature. Was it "a land of savagery and brutality," lying "dormant" while continental Europe was growing civilized, that produced Chaucer's poetry, built the Gothic cathedrals and developed that common law which to-day divides with the Roman law the empire of the world?

Even when we emerge from the middle ages and reach the period to which the author devotes his chief attention, we are confronted with equally doubtful statements. The isolation of England from continental influences (Preface, p. vi) is exaggerated. The assertion that there was no governmental interference with ideas and modes of thought (*ibid.*) is controverted by the author himself when, on page 187, he emphasizes the civil character and the governmental activity of the English Church. We are surprised to learn that James I, who was characterized by a contemporary as "the most learned fool in Christendom," belonged to the class of "observers," as distin-

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guished from "readers" (p. 119). The gentle and virtuous English country gentleman of the eighteenth century, as described on pages 193 *et seq.*, is a purely imaginary being, as every one ought to know who has read Fielding's, Smollett's or Scott's novels. But what historical accuracy can we expect from a writer who asserts that the sweet dish is to-day the centre of the English bill of fare, and that the other foods are arranged about it "just as in earlier days they were coördinated with alcoholic beverages" (pp. 380, 381).

It is on such an insecure substructure that Professor Patten erects — or rather deposits, on his downward curve — his fabric of generalizations. A striking illustration of the relation of his facts to his theories is afforded on pages 108–111, where he contrasts the environments which produced Calvinism and Lutheranism, and endeavors to explain the appearance of Calvinism in different environments.

> In Germany a moral reversion asserted itself; while in the mountain regions of Switzerland and Scotland, and also in the cities, Calvinism found a home. From one point of view, Lutheranism might be called a phenomenon of the plains and Calvinism of the mountains; from another, Lutheranism belongs to the country, Calvinism to the towns; from a third, it might be said that the Lutherans are Germans and the Calvinists Celts. None of these statements is altogether true, yet they show the deep cleft separating the two movements.

Hardly one of these statements is even mainly true. Both Calvinism and Lutheranism started, like Christianity, in the towns and spread to the country. Calvinism is not a phenomenon of the mountains in Switzerland; it gained its chief foothold in the Rhone valley, and it never spread to the old forest cantons, the mountain region *par excellence*. Calvinism did not gain its first footing in Scotland among the Celtic mountaineers, but among the Teutonic lowlanders. On the basis of his imaginary data, however, Professor Patten proceeds to inquire why Calvinism should appeal to two social classes so different as the mountaineers and the city artisans; and he finds the answer in the spirit of exclusiveness which characterizes the clan and the guild, and which finds its theological equivalent in the Calvinistic doctrine of election. All this is so plausible that one at first regrets that the facts are not as stated. On second thought, however, one asks: Why go so far afield as the Highland clan and the city guild for a universal human instinct, of which clan and guild and the doctrine of election may fairly be regarded as independent expressions? The nineteenth-century English lady who admitted that she

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shrank from an eternity among "the mob of the redeemed" was a member neither of a city guild nor of a mountain clan nor of the Presbyterian Church, but she had in her the root of the matter. Her attitude also explains what our author ignores — the hold which Calvinism gained upon the French country gentlemen. But it is time to check this line of thought, which indicates a yielding to the charm of Professor Patten's methods.

For some of his theories Professor Patten has not attempted to furnish any basis of fact. To this category belongs, for example, the theory that the stages of human thought are: (1) economic, (2) æsthetic, (3) moral and (4) religious (pp. 42 *et seq.*). It will at once be noticed that no place is assigned to political or legal thought. Possibly the author regards politics and law as branches, respectively, of economics and of morals. What I desire, however, to note especially is that these stages are conceived as existing, not in pure thought, but in time, and that the order here adopted is presented as the historical order in which human thought develops. I question whether any such order can be established; but if I were constrained to make the attempt, I should simply reverse the series which the author has adopted; and I am confident that I could find evidence enough to make such a reversed series more plausible than his.

Another generalization for which no supporting facts are adduced, and which, I think, it would be difficult to support with facts, is the statement that the Puritans were eliminated from English social life because they suffered disproportionately from consumption (pp. 140, 141). The predominance of France in Europe prior to the nineteenth century, too, is ascribed solely to her earlier economic development, and her loss of position is explained by the attainment of an equal economic development on the part of her neighbors. The non-philosophical reader, "on the upward curve," will be moved to ask whether there was not a period in the middle ages when Germany was more prosperous than France; whether Germany did not lose this advantage in consequence of her increasing disunity and disorder; and whether France's more rapid economic development was not preceded and rendered possible by the consolidation of the royal supremacy and the establishment of internal peace. He will then ask whether the popular theory which ascribes the overthrow of the French predominance to German and Italian unity, does not really go as near the bottom of things as Professor Patten's explanation. The political interpretation of history is quite as easy as the economic, and it is often more plausible.

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It would be unfair to Professor Patten to permit the readers of this review to imagine that all of his theories are as fanciful as those that I have noted. The majority of them are plausible, and some of them, I think, come close to the truth. His classification of men according to their ideas and impulses (pp. 23 *et seq.*), for example, seems to me substantially true, as well as interesting. I am not sure, however, that the basis of classification is the same for all four classes; I am inclined to think that a man may be a "stalwart" or a "mugwump" in his ideas, and at the same time either a "clinger" or a "sensualist" in his impulses. Concerning the value of the classification I am in doubt; and I cannot see that the author obtains from it any appreciable results.

His remarks, again, about the great writers, to whose theories and influence much of the book is devoted, are not only acute but frequently suggestive. These, indeed, are the adjectives that at once present themselves when the critic attempts to characterize the best points of the book as a whole. But, in spite of all its acuteness and suggestiveness, and in spite of the clear and taking style in which it is written, it fails to convince. The last and dominant impression which it leaves upon the mind of the reader is an impression of unreality, of an excursion into some scientific dreamland, or, as Ihering would have called it, a sociologist's heaven. If this is an overstatement of my impression, — and I am not sure that it is not, — it is probably due to the contagion of Professor Patten's example, for in many passages he has certainly said more than he really means.

MUNROE SMITH.

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REVIEWS.

The Dutch and Quaker Colonies in America. By JOHN FISKE. Boston and New York, Houghton, Mifflin & Co., 1899. — 2 vols.: 294, 400 pp.

In these volumes Mr. Fiske continues his work of popularizing American history, maintaining, as ever, a prominent and useful place among writers of his class. His review of the discovery and settlement of the colonies, and of their development till the early eighteenth century had been reached, is now before us. The latest installment, or perhaps monograph, of the series contains the history of the middle colonies in the seventeenth century, and thus fills the gap between New England and Virginia. In general character it resembles its predecessors, with the exception of *The Discovery of America*, which was a thoroughly original piece of work. In fact, about the only original suggestion which the reviewer has been able to discover in *The Dutch and Quaker Colonies* is the proposed identification of the river of Norumbega with the Hudson. This, like his explanation of the Pocahontas incident in his work on the Southern Colonies, comes from Mr. Fiske's wide knowledge of primeval America and of the literature and cartography of the discoveries. This, in turn, connects itself with his earlier studies in philosophy and natural science, and shows where his chief strength as an investigator and thinker lies. In every case, when he reaches the development of the colonies themselves, he lays philosophy, and to a large extent originality, one side and takes his place among a throng of popularizers of well-known themes.

In these pages Mr. Fiske tells anew the familiar story of New Netherland and its seizure by the English, of the founding of New Jersey and Pennsylvania, and of the social and political development of New York till the close of the Zenger episode. No historian since Bancroft has attempted to cover this entire field, and his treatment of it was brief. Mr. Fiske adds little to the work of his immediate predecessor, and that little he has derived from a few well-known monographs which have appeared since Bancroft wrote. By the use of the *Half-Moon Series* and a few other similar authori-

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ties, a somewhat more modern aspect is given to the accounts of New Amsterdam and of provincial New York than they bear in the pages of O'Callaghan and Brodhead; but the change is by no means as great as it probably would have been, had the author digested the contents of the *Records of New Amsterdam* — also a recent publication.

The first volume is introduced by chapters on the mediæval Netherlands and on Dutch influence upon England. As to the extent and decisiveness of the latter, the author, like others before him, raises only a presumption; and that, if it be of value, tends to explain conditions in New England rather than in New Netherland, and, one would think, should have found a place in an earlier volume of Mr. Fiske's writings. But further on Mr. Fiske expressly rejects Douglas Campbell's hypothesis — a fact which would seem to reduce still more the value of his second chapter. That Dutch institutions were, however, established in modified form at points on the Hudson and Delaware rivers is certain; and such a comparative study of the Dutch provinces in Europe, and of the province they established in America, as would show how the offspring in all its parts stood related to the parent, and what mutual changes resulted when Dutch and English institutions in America were brought into contact, would be both interesting and valuable. But such a study, or the furnishing of material which would really lead to it, lies beyond the scope of both Mr. Fiske's method and his plan. He can only express the pious belief that such and such things are so; the proving of them requires activity of an order different from that of telling a pretty story or sketching the results of earlier investigations.

It may be suggested that, if the author had thrown into bolder relief the extensive naval and military enterprises of the Dutch West India Company against the Portuguese in Brazil, and the fact that owing to these the Company soon after 1640 became bankrupt, he would have made clearer the causes of the failure of colonization in New Netherland. These conditions had a more direct bearing on the result than had the form of institutions. We also note that, though Mr. Fiske regards as valid the claim of the Dutch to the valley of the Hudson, he unnecessarily weakens it by accepting as proved the report that Argall raised the English flag at Manhattan in 1613.

When treating the English portion of his subject, in the second volume, the author becomes more discursive than usual. As an introduction to the history of Pennsylvania, we have a sketch of the early development of toleration and of the connection of the Quakers

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with it. The European career of Penn is also discussed at considerable length, and long extracts from his writings are given. Though the portrait of the Quaker leader is well drawn, it must be said that we find in the book much more about him than we do about Pennsylvania. The very attenuated account of the history of that state leaves the reader with an impression concerning it as vague as that yielded by the pages of Proud. In the case of New York, as well as of Pennsylvania, when the author crosses the threshold of the eighteenth century, his narrative becomes so sketchy as to lose nearly all its value. That he fails to understand the nature of Pennsylvania history is also indicated by the fact that he calls it a commonwealth. This it certainly was not, however strong may have been the democratic tendencies within it. Scientifically, it would have been as correct to call New York subsequent to 1691 a commonwealth, as to apply that term to colonial Pennsylvania. In his chapter on "Knickerbocker Society," Mr. Fiske makes some reference to the great families and to the manorial system of New York, but he does not make effective use of that subject for the purpose of explaining the political conditions which existed there. He thus misses a most interesting and important chapter of New York history, and one which would have harmonized well with the general plan of the work. We find that West Jersey is left almost a blank; and the reader is not furnished with the means of judging whether Andros or the New Jersey proprietors were right in their controversy over the customs.

While the book is free from positive errors of a serious character, it is at best merely a popular review of the subject, and in parts is slight and sketchy even for that. It contains no original contribution of importance to the history of the middle colonies, and in general plan and method does not essentially differ from the earlier works on the subject.

H. L. OSGOOD.

A History of Quaker Government in Pennsylvania. By ISAAC SHARPLESS. Philadelphia, T. S. Leach & Co., 1898, 1899. — 2 vols.: 280, 255 pp.

The first volume of this work, entitled *A Quaker Experiment in Government*, contains a series of sketches describing the political activity of the Society of Friends till 1756, when, as a result of the exigencies arising from war, its members ceased to dominate public affairs in Pennsylvania. Under the title, *The Quaker in the Revolution*, most of the second volume is devoted to an explanation, similarly

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in topical form, of the attitude assumed by the Friends on the question of forcible separation from Great Britain. It concludes with a chapter on the efforts of the Quakers to procure the abolition of slavery prior to 1800.

As frankly avowed in the preface, the author does not claim to have written "an authentic and impartial history of colonial Pennsylvania." In fact, the general title is not historically accurate. The Society of Friends, as such, did not govern the province; and, although the Quakers constituted a majority in the Assembly until 1756, there was but one deputy-governor of that faith, while after 1776 assuredly no "Quaker government" existed in Pennsylvania. The close dependence, moreover, upon purely Quaker sources, like the records of Meetings, the merely occasional reference to public documents and the absolute disregard of unprinted materials, other than Quaker, give the impression that the work is not a history at all, but rather a justification of Quaker principles and practices in colonial and Revolutionary politics. In this connection, some account of the social and business relations of the Quakers would have revealed in part the origin of their political strength. As a justification of the Quakers, the writer has elaborated an interesting subject. Yet it may be queried how "the minutes of the Yearly and other Meetings would give a different idea of the political principles and bias of Friends" from that found in public records, if "the proceedings of the meetings never touch legislation" and if "no candidates were ever suggested or discussed" and "no political conclusions or advice ever appear." Nor can the dogmatic assertions as to the views of the Quakers in Pennsylvania be accepted without reserve. Instead of "perfect democracy," the frames of government, projected or adopted, as well as the frequent utterances of William Penn himself, seem to indicate rather that the constitution was designed to be somewhat aristocratic. "Perfect religious liberty" also could not have existed, if any religious test whatsoever were imposed by the Quakers themselves. Illustrations of statements by the use of much shorter quotations from authorities in the body of the work would have been advisable, since the extreme length of some of the quotations tends to weary the reader, if not to obscure the matter under consideration. A judicious process of condensation and rearrangement, while perhaps reducing the size of the production to one volume, would have clarified and invigorated the theme.

However unintentional on the part of the author, evidences appear of hostility toward the proprietors. Popular errors and prejudices,

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current in the eighteenth century, are repeated concerning the studied encroachments of the younger Penns upon the rights of the people, and, in particular, concerning their alleged unwillingness to submit to the taxation of their estates. The intimation, however, that the legal right of the provincial Assembly to levy such taxation was sustained by the home government, has no basis in the decision of the Board of Trade.

In some respects the chapters on the conduct of the Quakers during the Revolution are the most valuable in the work. That the orthodox element, in contradistinction to the so-called "Free Quakers," maintained an attitude which, however unsatisfactory it may have been to the patriots, could not properly be regarded as inconsistent with the religious principles of the Society, is a plea well supported. Still, the plea has not altogether refuted the charge of political shiftiness, so often brought by their opponents before and during the Revolution.

WILLIAM R. SHEPHERD.

COLUMBIA UNIVERSITY.

The History of South Carolina under the Royal Government, 1719–1776. By EDWARD MCCRADY, President of the Historical Society of South Carolina. New York, The Macmillan Company, 1899. — xxviii, 847 pp.

This work completes the author's history of the colony of South Carolina, a volume on the proprietary period having been published in 1897. Born and reared in Charleston, thoroughly imbued with the Charlestonian spirit, possessing the cool, logical reasoning powers of the trained lawyer, General McCrady is well adapted to perform the work he has undertaken.

The general arrangement of the book is as follows: Beginning with the overthrow of the proprietary government in 1719, there is a series of chapters on the political history, arranged in strict chronological order. Then follow a few chapters on the social, industrial, religious and educational life of the people. These are extremely valuable pictures — based, as they are, not only on a careful study of family records and contemporary newspapers, but to a large extent upon the personal experience of the author; for the Charleston of his boyhood days differed little from the Charleston of 1765. Following these parenthetical chapters, the political history is again taken up and carried down to the arrival of Lord William Campbell, as governor, in the year 1775.

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The principal sources for this period are the Public Records and the Journals of the Council and Assembly, all in manuscript at Columbia. General McCrady has, however, relied almost entirely on such material as he could obtain in Charleston, in the shape of newspapers, pamphlets and the abstracts of the public records in the publications of the South Carolina Historical Society. A closer study of the records in Columbia would hardly invalidate many of his statements and conclusions, but it might have altered the proportions of his work. For example, he might have devoted more space to the efforts of the home government to check the land frauds during the administrations of Governor Johnson and Lieutenant-Governor Broughton. However, the author has made a most careful and painstaking use of all the material in Charleston, both published and unpublished, and has produced a work of exceptional interest and value.

In addition to the chapters on the social and industrial progress of the colony already referred to, there are a number of good points that should be specially mentioned — such, for example, as the excellent character portraitures of the Bulls, of Drayton, of Gadsden and of others; and the thorough description of the expedition against St. Augustine in 1740, in which he shows conclusively that the failure was due to the incapacity of Oglethorpe and not, as commonly claimed, to the insubordination of the South Carolina troops. Other points worthy of note are: (1) The Churchmen in South Carolina, both clergy and laity, were leaders in the Revolution, while in the other colonies they were usually loyal; (2) the young men were educated in England and derived their political ideas largely from the speeches of Pitt, Fox, Burke and Barré; and (3) South Carolina, not much affected by the English restrictions on commerce and manufactures, was led into the Revolution almost entirely out of sympathy for the Northern colonies and in defense of abstract principles of right.

The book is not entirely free from errors. Some are clearly typographical, some as to dates previous to 1752 are due to a confusion of the old and the new style of reckoning, others are evidently due to carelessness, while still others seem to be the result of an insufficient study of the manuscript sources at Columbia. A few of these mistakes will be briefly noted. It is incorrect to say that the chief-justice was *ex-officio* a member of the council (p. 43). Speaker James Moore did not die February 17, 1723 (p. 57), but on March 3, 1723–24 (*His. Soc. Col.*, I, 279; Com. House Journals, MS., VII, 3).

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He incorrectly says that the paper money act of February 23, 1722–23, was passed in 1722 (p. 63). Further, he makes the statement that the Lords Justices repealed this act and instructed Governor Nicholson to secure the passage of a law to sink the extra amount issued, by requiring the bills to be paid into the treasury for duties and then cancelled. The fact is that the instructions to Nicholson merely ordered that the bills be cancelled and did not provide the specific method. That originated in the Commons House of Assembly, as shown by a committee report of December, 1723 (Journal, MS., VI, 343–345). What does he mean by saying that King George I died before the petition of the Lords Proprietors reached England (p. 73)? The Proprietors were in England. He is mistaken in assuming that the provision requiring all laws to be sent to England within three months after their passage prevented laws from going into effect until approved by the king (p. 94). This was the case only when the act was passed with a suspensive or saving clause.

In speaking of the title of the lower house in enacting clauses, he says that the term "Commons House" was not used from 1733 to 1755 (p. 96). Had he studied the statutes more closely, he would have seen that this title was regularly used from 1734 to 1744, occasionally from 1744 to 1755 and, as he states, regularly after the latter date. His history of the office of provost marshal is not entirely accurate (pp. 99, 627). He is correct in saying that the Lords Proprietors in 1725 granted the office by patent to Thomas Lowndes and Hugh Watson for their several lives, and that the patent was renewed by the crown in 1730. But this patent expired in 1759, on the death of Watson, and the king commissioned Richard Cumberland to fill the office (Public Records, MS., XXVIII, 197–199). It is, moreover, incorrect to say that Cumberland succeeded Charles Lowndes in 1764, for the further reasons that Lowndes held the office only as a deputy and that he died in 1758 (Com. House Journal, MS., XXXII, 213). Throughout this entire period, in fact, the original patentees were resident in England and performed the duties of the office through deputies or assignees.

In referring to an act passed early in Governor Johnson's administration, to stamp £77,000 in bills of credit (p. 109), he is misled by following Hewatt too closely (*vide* Hewatt, II, 13). There is no reference to such a law in the *Statutes* or in any original source whatever. The Bulls, father and son, were lieutenant-governors for thirty-three years, but did not actually administer the government

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during that entire period (p. 177). Moreover, the administration of Bull the second extended over a period of nine years, and hence was shorter by four years than that of Governor Glen (pp. 794–5).

Perhaps his gravest mistake — and one which we should hardly expect a lawyer to make — is in reference to the history of the judiciary. He states that the two common law courts were based on the act of February 12, 1719–20, now lost (pp. 7, 8). But Chief-Justice Whitaker, in a letter to Henry McCulloh, dated February 3, 1742, states positively that the Court of General Sessions was established by act of August 20, 1731, and the Court of Common Pleas by act of March 5, 1736–37 (Council Journal, MS., X, 102–112; *vide* Cooper's *Statutes*, III, 282; VII, 189–191). A study of these laws will show that the Court of General Sessions was formally established in 1731, but that the Court of Common Pleas was organized before 1737, by an act which had probably been disallowed in England. The law of 1737, however, remained the statutory basis on which the court was organized for the remainder of the colonial period. The statement that the law empowering the governor to appoint assistant judges was this lost act of 1720 (pp. 460, 461) is also incorrect. Such authorization was given by the act of February 26, 1731 (*Statutes*, III, 323–326). Before that time there were no assistant judges.

In an appendix there are lists of various colonial officials which are not as complete as they could be made by a study of the manuscript records and journals. For example, in the list of speakers of the lower house, the author omits Thomas Hepworth, 1724–25; General Fenwicke, 1727–28; William Dry, 1728–30; John Lloyd, 1730–31; Robert Hume, 1732–33.

The book is, as a whole, fairly trustworthy; is characterized by a vigorous, pungent and, at times, almost polemical style; and is a noteworthy addition to the scant literature on the Southern colonies.

W. Roy Smith.

Columbia University.

The Jacksonian Epoch. By Charles H. Peck. New York and London, Harper & Brothers, 1899. — iv, 472 pp.

This book [the preface tells us] is an attempt to accomplish two objects: a critical survey of the political history of the United States, particularly in its parliamentary phase, from the presidential candidacy of Jackson to the accession of Tyler, with a preliminary review of the preceding period beginning with the origin of the War of 1812; and to exhibit the influence

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of the men who shaped events. The first permits a rapid and independent treatment of the subject from a new point of view; and the second, the introduction of the personal element, which gives to history its keenest interest and its greatest charm. . . . General histories, however useful and excellent, subordinate men, and biographies either magnify individuals beyond their influence and importance, or do not adequately portray their contemporaries and the general perspective. This book, therefore, is an effort to combine and symmetrize both historical elements in order to present a true and lifelike picture of a most animated political epoch. . . . Wherever opinions have been expressed at variance with commonly accepted views, a candid effort has been made to submit all the essential facts, that the reader may be in a position to judge for himself.

In the aim "to combine and symmetrize both historical elements in order to present a true and life-like picture," there is nothing new. From Thucydides to Ranke and the best of living writers, to do this very thing has been the aim of every good historian. The question that most concerns us in an appraisal of this good book is not, What are the merits of a new method? but, In what degree is the new picture of the Jacksonian epoch life-like and true?

The first chapter traces the beginning of the feud between Jackson and Clay to the effort made in 1819 to induce Congress to censure Jackson for high-handed measures in the Seminole War. Clay, by the leading part he took in support of the offensive resolutions, then incurred the undying enmity of Jackson. This dramatic, though not sensational, introduction brings before the reader in an interesting manner the two men who are the foremost leaders in the great struggles of the so-called Jacksonian epoch. The question, Who was Henry Clay? is answered by a well-drawn sketch of the early life of the Great Compromiser and also of his political career down to the election of Jackson as president. Closely associated with the sketch, but always subordinate to it, there is presented a review of that important section of the political history of the United States which begins with the maritime aggressions leading to the War of 1812 and closes with the election of Jackson in 1828. These preliminaries cover a little more than one-fourth of the book — a generous, but perhaps not undue, allowance.

Up to this point the prominence given to the biography of Henry Clay would lead most readers to apprehend that in what is to follow too great emphasis would be laid on the personal elements; but such is not the case. Throughout the three hundred pages devoted to the Jacksonian epoch proper, — that is, the twelve years from the accession

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of Jackson to that of Harrison, — Clay and Jackson appear as the leading protagonists, but there is certainly no slighting of the claims of general history. These leaders are portrayed as helpers, when they are wise, of the movements with which they are associated; as hinderers when they are unwise; but never as creators or, in any unqualified sense, as masters. Even the dominating and triumphant Jackson is not presented as an originator.

To say that Jackson's political career was the product of circumstances would not be strictly accurate, yet it is more nearly so than is usually supposed. . . . His eminence was the consequence of his being the chance instrument by which the forces that had been long in gathering were to assert themselves. Undoubtedly, no other man would have done exactly, or perhaps even approximately, as he did; yet certainly the general results of the period would have been practically the same. His potent personality, indeed, singularly adapted him to the conditions, but he affected rather the hue than the texture of the political fabric.

Contrary to the expectation which the title naturally awakens, the hero of the book — if it has a hero — is not Jackson, but Clay. The space accorded the latter is, at a rough guess, probably double that bestowed on the man for whom the epoch is named; and some readers, while conceding a high degree of impartiality as between the two, will conclude that the writer's treatment of Clay is more sympathetic, more a labor of love and admiration, and on the whole more nearly adequate.

He had the gray eyes so common to genius and fine intelligence. In repose they were not markedly expressive, but with excitement or emotion they flamed with various lights. His features were plain, even homely. . . . The facial muscles were extremely flexile and in the highest degree responsive to his thoughts and feelings. This latter was the one physical attribute, besides his voice, that gave distinction to his presence when he spoke or was moved. It was this harmony of movement and expression, in combination with a voice marvellous in its richness, variety and power, that produced the singular spell he exerted. His entire composition seemed plain and neutral, that his highly emotional nature might have a perfect instrument of manifestation. As might be supposed from these characteristics, his manner had great charm. It gave the impression of frankness, freedom and generosity, and was ordinarily coupled with a contagious buoyancy and sanguineness of spirits. . . . Placed in elevated positions and thrown among able men at an early age, he soon acquired that ease and grace which follow capacity and experience of the world. . . . While he had superiors in various departments and particulars, in his generation there lived no man who rivalled his peculiar combination of heart, mind and

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address. There were many who surpassed him in range, variety and solidity of learning; many, in closeness and severity of logic; many, in calculation and shrewdness of judgment; many, in purity and finish of diction; but in that general excellence and complete harmony of faculties which unify body and mind, on a lofty scale, he had no peer. It is that balance, allowing the most free and perfect play of the faculties, which produces the subtle attribute of personal magnetism; and no more striking instance of it is found in history than that exhibited by Henry Clay. He was entirely devoid of pettiness and vanity; he was of too large and strong a mould to be in any way cheap. Long before the age of fifty, and when the most brilliant part of his career was yet to come, his experience in the highest realm of public affairs had destroyed all sense of novelty in his situation and that self-consciousness which attends the assumption of power; his habit of mind had become that of the statesman and party chieftain.

This pen-portrait, probably one of the most truthful of the many that have been drawn of Henry Clay, owes much of its excellence to the fact that the artist himself is keenly sensitive to the charm which he depicts. But despite this predilection — and what American to whom Henry Clay is known is without it? — the scales are held evenly. Clay's tactical mistakes, some of them costing a defeat when victory was quite within grasp, together with his confessedly serious errors in statesmanship, are fully told. Among recent historical books few seem so free from special pleading.

Another marked excellence is the good judgment, fairness and skill with which the writer summarizes the views of those who had leading parts in the political contests of the period. If one lacks time for the full text of the more voluminous records, this summary may, I believe, be accepted as trustworthy.

Has the book defects? Yes, and one of considerable magnitude. In the preface it is asserted that

> the epoch treated is the most suggestive and dramatic in our history. It marks the full development of American political methods, and possesses the most distinguished galaxy of public men ever brought together on the political scene in this country.

This is exaggeration: at least the writer does nothing to prove the untenableness of the common view that the Jacksonian epoch is less suggestive than the Federalist period, and less dramatic than the fifteen years which separate the Compromise of 1850 from the surrender of Lee; that it marks an interesting and highly significant stage, rather than "the full development of American political methods"; and, lastly, that the men who gave us the Constitution, and piloted

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our ship of state through the storms of the first three national administrations — among them Franklin, Washington, John Adams, Hamilton, Jefferson, Madison and Jay — form "a galaxy of public men" not less distinguished than that which adorns the Jacksonian epoch.

One result of such exaggeration is to obscure the organic relation of the period treated to other periods. Another is a faulty distribution of emphasis in dealing with its different issues: those which engage public attention most fully at the time, and, in particular, such as after severe struggles are then definitely settled, receive more than their just share of consideration; while those that had to wait for settlement until a late period, even when their relation to the public welfare is more vital, suffer comparative neglect; and what is true of the issues is equally true of the leaders associated with them. Each of these results appears in the book before us: the period itself is presented with too little regard for its organic relation to subsequent periods; while scant space and scant appreciation are dealt out to the issues raised by the nullification and anti-slavery movements and to their leaders, Calhoun and Garrison. It may be added that in measuring political values the writer, as a rule, does not rate as highly as they seem to deserve those services and those public servants that did most to strengthen the Union against the time of stress that was soon to come. In no other way can I account for the relegation of Webster to the obscure background of a picture in which, according to the traditional view, he deserves one of the foremost positions. These defects are, so to speak, structural and therefore serious. Nevertheless, the great excellencies of the book entitle the author to the gratitude of every student of the Jacksonian epoch.

Amherst College. Anson D. Morse.

History of the United States from the Compromise of 1850. By James Ford Rhodes. Vol. IV, 1862–1864. New York, Harper & Brothers, 1899. — xvi, 557 pp.

The latest volume of Mr. Rhodes's history has for its scope the vital part of the Civil War. It begins with McClellan's march to the neighborhood of Richmond and closes with Grant's arrival at the same relative position. This period is full of intricate problems for the historical student. The historical facts pertaining to it lie concealed in a hundred volumes of records, memoirs and biographies, and over all is the uncertainty of controversy. That Mr. Rhodes

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has gone through all with such careful industry and correct spirit is essentially commendable. It is, perhaps, not too much to say that his book is the best general treatment of the subject.

The style is, in a sense, dramatic. The author has a rare faculty of keeping behind the point of greatest interest. Thus, in the Gettysburg campaign he begins with Lee's invasion of the North, following the Southern army till it is well over the border. When that point is reached, the story shifts to the magnificent concentration of Meade at Gettysburg. Next, the narrator is with the Confederates, and the reader sees the battle from their standpoint; for is this not the battle of all battles for the South? In regard to the charge on Cemetery Ridge there is all the admiration for the charging hosts that the most ardent Confederate could desire. In this way one moves on from event to event with ease, not to say with animation.

Another point in favor of Mr. Rhodes is the use he makes of documents. He is thus able to make an event appear to the reader of to-day in all the lights and shades that it had when it was a vital issue to the people of the past. An illustration is his treatment of the campaign of Grant in Virginia in 1864. It has been the custom to speak of this as a hopeless struggle to the South, and so it was. But that is not the way it appeared to the people of the North at that time. Says the author:

> Despondency and discouragement are the words which betray the state of feeling at the North during the month of July, and the closer one's knowledge of affairs the gloomier was his view; but the salient facts put into every one's mind the pertinent question, "Who shall revive the withered hopes that bloomed on the opening of Grant's campaign?"

There were the terrible losses in battle, the desertions from the army, the dark political prospects, the shudder of terror on account of the near approach of Early to Washington, the frightful expenses of the government, the financial distress and ever the call for more troops. When we read the cold narrative of these things, we are better able to see how it was that the South still believed that they would yet be successful. They believed, as Jefferson Davis said to Jaquess and Gilmore, that Lee had outgeneraled Grant, that the latter was no nearer to Richmond than at the beginning of his campaign and that Sherman was destined to be cut off from his base of supplies.

> As to money [continued Davis] we are richer than you. You smile; but admit that our paper is worth nothing — it answers as a circulating medium, and we hold it all ourselves. If every dollar of it were lost, we should, as

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we have no foreign debt, be none the poorer. But it *is* worth something; it has the solid basis of a large cotton crop, while yours rests on nothing, and you owe all the world. As to resources, we do not lack for arms or ammunition, and we have still a large territory from which to gather supplies.

Another point that is apt to arrest the attention of the reader is the position of McClellan as a military leader. It will be a long time before the American public will cease to dispute over this question. Mr. Rhodes has succeeded in showing McClellan's strong points and his weak ones. His organizing ability, his knowledge of tactics, his popularity with his troops and his long endurance are all qualities of the best generalship. But his timidity and his lack of aggressiveness will always take from him the rank of a great leader. And this is not to be excused by the interference of the President in military affairs. Nobody knew better than Lincoln the faults of McClellan. He had known him before the war began, and had had some rather unpromising political and business experiences with him. The President's interference usually followed some conviction that a general was not doing all that the military situation warranted. It was practised on Halleck, on Hooker, on Burnside and on others; but when Grant took command there was at once evident about him something that had the air of successful method — something which convinced Lincoln that interference was not necessary. And for the whole Wilderness campaign, in spite of terrifying losses, Grant was given a free hand. It was only when the army lay broken before Petersburg that Lincoln began to show the least sign of uneasiness, and that was soon relieved by Sheridan's brilliant exploits in the Valley.

Comparing Grant and McClellan, Mr. Rhodes says:

> In the judgment of many military critics, Grant had not been equal to his opportunities, had not made the best use of his advantages, and had secured no gain commensurate with his loss. Yet the friends of McClellan, who maintain that, because McClellan reached the same ground near Richmond with comparatively little sacrifice of life, his campaign had the greater merit, miss the main point of the situation — that the successive hammering of Lee's army was a necessary concomitant of success. They attach to the capture of the Confederate capital the subjugation of the South, ignoring that Grant was supremely right in making Lee's army his first objective and Richmond only his second. His strategy was superior to McClellan's, in that he grasped the aim of the war, and resolutely and grimly stuck to his purpose, in spite of defeats and losses which would have dismayed any

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but the stoutest soul; and criticism of him is not sound unless it proves, as perhaps it does, that there might have been the same persistent fighting of the Army of Northern Virginia without so great a slaughter of Northern soldiers.

While the main interest of the book is Northern, the treatment of the South is extensive enough and considerate enough to satisfy any Southerner of reasonable disposition. A Southerner writing with the same spirit of accuracy would, indeed, make the best history of the war from the Confederate standpoint. He would say more about the internal condition of the Confederacy, and his accounts of battles would be written from the standpoint of those who wore the gray. Such a work is the most crying need now existing in the field of the history of the war; and if it were written, it would probably sell widely enough to repay the cost of publishing.

There is in this book a wholesome absence of eulogy. Lee is painted as he was — a strong and resourceful general, but without that glamour of chivalry which Southerners are accustomed to throw about him. He is, says the author, not to be classed as a Napoleon. This will not be a popular statement to repeat at Confederate reunions, but it is the truth. It is, moreover, in keeping with the treatment of the Northern heroes; for there is enough mention of the shortcomings of Lincoln to save him from idealization; and Grant, in both his public and his private capacity, is held up for inspection in the same spirit. It is fortunate that there is in the country an historical student like Mr. Rhodes. His succeeding volumes, especially his treatment of Reconstruction times, will be awaited with interest. It is right for him to feel that the most interesting part of his work is before him.

JOHN S. BASSETT.

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Thaddeus Stevens. By SAMUEL W. MCCALL. (American Statesmen Series.) Boston, Houghton, Mifflin & Co, 1899. — 369 pp.

In the congressional history of the Civil War and Reconstruction, Thaddeus Stevens will always be the most dramatic figure. Although long past the prime of life, he was able to control Congress and to dictate much of its most important legislation. Even when he was unable at first to accomplish what he desired, he not infrequently had the satisfaction of seeing Congress gradually come to his standpoint, thus securing ultimate triumph. The biographer of Thaddeus Stevens is called upon to determine whether such facts prove that he

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possessed statesmanship of a really high order. The impression created by reading Mr. McCall's book is that, in spite of a conscious effort at judicial criticism, the author mistakes a following in the wake of popular feeling for statesmanship. Although Stevens's sincerity, courage and honesty are unquestioned, his acumen in the treatment of affairs of state was not much greater than that of the people at large. To oppose a majority of Congress, when conscious that popular sentiment is behind one, is very different from educating a hostile country to a true understanding of the conditions of a problem.

In one sense of the word, Thaddeus Stevens was unquestionably a leader. As the most prominent member of the House of Representatives and as the chairman of its most important committees, he is easily entitled to the term. But if by leader we mean one who is first to recognize the most successful solutions of national problems and to bring the country to see their correctness, Stevens's claim cannot pass without question. In too many cases, as time has proved, Mr. Stevens failed correctly to analyze national problems. As a brilliant advocate, he could present one side of a question with great power, but his very brilliancy as a partisan incapacitated him from dealing properly with the most important questions of the period. Had his congressional career opened at a time when the national problems were of less stupendous magnitude, he would still have been an unsafe leader. As it was, whatever influence he possessed — and no other congressman had greater — was exercised along lines now admitted to be unsafe.

It is difficult to compare the work of Thaddeus Stevens or his contemporaries with that of the congressional leaders of an earlier or a later period. The opportunities during the Civil War and Reconstruction for statesmanship of a really high order were greater than ever before, but the conditions were correspondingly harder. A man able properly to rise to the situation had to be one possessing originality of thought not limited by precedent and boldness not intimidated by popular disapproval. To determine whether our congressional leaders properly rose to the emergency, one would be compelled to know, more accurately than can ever be determined by speculation, the influence of Congress upon the people and of the people upon Congress. It is more than probable that, even if theoretically correct methods had been favored by Congress, attempts to apply them would have been frustrated by popular passion. The most severe criticism that can be made against Stevens is that he

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saw no farther than the most violent of his party and countenanced and furthered sentiments which should have been firmly repressed.

Although the greater portion of the volume is devoted to the period of the Civil War and Reconstruction, Mr. McCall has not clearly shown how far Mr. Stevens was responsible for legislation. It would be interesting to know to what extent he permitted his own ideas to be moulded or modified by public sentiment. If no information upon this subject could be obtained, a critical study of the editorial utterances of the time would afford a foundation for fairly successful speculation and would possibly furnish that key to his life and character which as yet seems to be missing. For Stevens, prominent as he was for so long a period, is yet an unknown character. If the chief purpose of the book had been to throw light upon Stevens's character, its value would have been increased by devoting more space to the first fifty years of his life; for from the more obscure portions of a man's career often come hints which successfully interpret later apparent inconsistencies.

The work gives evidence of careful study of portions of the life and times of Thaddeus Stevens; but it is easy to see that the author's sources of information, outside of the *Congressional Globe*, were inadequate. The book, however, taken as a whole, is excellent. No one can read it without feeling increased interest in the period under discussion and in Thaddeus Stevens as one of the few great men whose public careers were confined to the lower House. The literary style is clear and forcible, and gives to the work a charm which makes it unusually interesting reading. Mr. McCall evidently has worked with the limitations of the series constantly before him and doubtless would admit that his task was thereby made too great. A really sympathetic, interpretative life of Thaddeus Stevens is yet to be written.

CHARLES E. CHADSEY.

DURANGO, COLO.

Letters and Recollections of John Murray Forbes. Edited by his daughter, SARAH FORBES HUGHES. Boston and New York, Houghton, Mifflin & Co., 1899. — 2 vols.: ix, 353, 264 pp.

With a naturalness and simplicity befitting the subject, the present volumes unfold the life of a strong man, — a man of initiative and of action, whose highest eulogy is found in the recital of what he accomplished. Born in stirring times, February 23, 1813, at Bordeaux, in France, of American parents, he was soon afterwards

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brought to the United States on a schooner bearing the provocative name of *Orders in Council;* and there is a tradition that, during an unsuccessful attack upon the vessel by Guernsey privateers, he "was put down in the forecastle, with a dose of laudanum in his stomach and his ears stuffed with cotton wool to avoid harm from the noise of the cannon." At the age of ten he was sent to the school of Messrs. Cogswell and Bancroft, at Round Hill, Northampton, where he remained till he was fifteen. He then entered the counting-house of his uncles, Messrs. J. and T. H. Perkins, famous merchants of Boston; and, as they were engaged on a large scale in trade with the East, it is not strange that he soon found his way to Canton, where he entered the house of Russell & Co., in which he afterwards became a partner. At the end of three years he returned, somewhat broken in health, to the United States; but a few months later he reëmbarked for Canton, where he remained till the end of 1836. Ten years later he became president of the Michigan Central Railway; and for a number of years thereafter he was deeply engaged in the development of railway systems, especially the Chicago, Burlington and Quincy, in which his success is well known.

But enterprises of this kind, great as they were, did not absorb his whole attention. He was deeply interested, not as a seeker after preferment, but simply as a patriotic citizen, in political affairs. He witnessed with regret, but without despair, the rising spirit of sectionalism; and, when the storm broke, he devoted all his energies to the preservation of the Union. He assisted in the raising, equipping and provisioning of troops, as well as in their transportation, in which his experience with railways and vessels gave him a special adeptness. He aided, too, in the raising of money, employing his own means and credit whenever there was occasion for so doing. To the successful work of the Sanitary Commission he largely contributed. He advised with public men, frequently suggesting important measures; and, by counsel and suggestion, often gave a wise direction to the press and to public opinion.

In March, 1863, Mr. Forbes was unexpectedly summoned by a telegram from Mr. Chase, then secretary of the treasury, to a conference at the Fifth Avenue Hotel in New York. Here he found Mr. Chase and Mr. Welles, secretary of the navy, and received from them a request to undertake, with Mr. W. H. Aspinwall, a mission to England, chiefly with a view to preventing — by purchase, if necessary — the two ironclads, known as Lairds' rams, then building at

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Birkenhead, from following the *Alabama* into the hands of the Confederates. In four days after the receipt of the telegram Mr. Forbes was on his way to England, and he was soon followed by Mr. Aspinwall. They were authorized to contract, for the purposes of their mission, a credit of a million pounds sterling, and they had ten million dollars in 5–20 bonds to pledge for the purpose. The ironclads were ultimately stopped by the British government; but, although the occasion for the use of the credit did not arise, the facts now disclosed as to the special mission seem to dissipate certain fanciful explanations which have been given of the existence of these particular bonds.

The circumstances and the objects of the mission were not fully disclosed even to Mr. Adams, our minister in London — who, in fact, prudently discouraged any disposition to acquaint him with them; and, with the exception of the mere incident of the issuance of the bonds, they appear to have been altogether unknown to Mr. L. E. Chittenden, then register of the treasury, who, in his *Recollections*, conjectures that the bonds were issued as security to an unnamed "quiet gentleman" in England, who had voluntarily offered Mr. Adams a million pounds sterling in coin as a judicial deposit to meet any claims for damages which might arise from the detention of the vessels by legal process. In this relation it is proper to observe that a note, on page 57 of the second volume of the present work, conveys the impression, which has widely prevailed, that the order for the prevention of the sailing of the rams was issued by the British government in direct response to the famous communication to Earl Russell, in which Mr. Adams, referring to the expected departure of one of the vessels, quietly observed: "It would be superfluous for me to point out to your lordship that this is war." The order was, in fact, issued previously to the reception of this communication by Earl Russell.

It appears, by a paper printed as an appendix to the second volume (p. 240), that Mr. Forbes did not value highly Mr. Seward's management of foreign affairs. It is not improbable that, as time passes and the glamour which soon envelops men prominently connected with successful wars fades away, there will be more discussion of this subject than there has been in the recent past.

J. B. MOORE.

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To-morrow in Cuba. By CHARLES M. PEPPER. New York; Harper & Brothers, 1899. — viii, 362 pp.

Industrial Cuba. Being a Study of Present Commercial and Industrial Conditions, with Suggestions as to the Opportunities Presented in the Island for American Capital, Enterprise and Labor. By ROBERT P. PORTER, Special Commissioner for the United States to Cuba and Porto Rico. With maps and sixty-two illustrations. New York, G. P. Putnam's Sons, 1899. — xi, 418 pp.

Mr. Pepper went to Cuba as a newspaper correspondent in the spring of 1897 and remained there, with the exception of a short time spent with the United States army and navy outside the island, for about two years. A careful and sympathetic observer of political, social and economic conditions, he obtained a great deal of information, which he has amplified by a study of historical works and official documents; and he has produced a work of substantial value. He begins his review of events with the pact of El Zanjón, which nominally brought to a close the ten years' war. The treaty of El Zanjón, though designed to introduce a new order of things, proved to be a truce, rather than a peace. It produced reforms, but did not remove the fundamental cause of discontent. It was followed by the formation of various political parties, which pursued their respective aims till the conjunction of economic distress with political unrest occasioned the outbreak of the insurrection of February, 1895.

Of this conflict, and its progress and effects, an understanding of which is so necessary to a comprehension of present conditions, Mr. Pepper gives a vivid and interesting account. He treats it as in principle a continuation of the ten years' war; and in this he is essentially correct. But it was a frequent subject of comment, during the course of the struggle, that it did not appear to have the support of the property-owning class, whose active coöperation was a conspicuous feature of the ten years' war; and from this circumstance the deduction was made that the movement did not command the sympathy of Cubans to the same extent as the previous insurrection. It is believed that an explanation of errors on this subject, both of assumption and of inference, may be found in the effect of one of the measures enforced by the Spanish government during the ten years' war. While it is doubtless true that there were influential members of the Autonomist party who did not give their support to, but on the contrary opposed, the late insurrection, because they

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hoped that necessary reforms might be obtained by constitutional agitation, yet it is also true that the extensive confiscations, during the previous conflict, of the estates of disaffected Cubans went far, not only towards transferring the titles to property in the island to Spaniards and aliens, but also towards destroying a powerful native element which thirty years ago might have formed a ruling class in an independent Cuba. The historian of Cuba may find in these things matter for an interesting study.

But what of the "To-morrow"? This question must, as Mr. Pepper maintains, be answered by the Cubans themselves; and he is hopeful of the result. As the first step toward the solution of the problem, he suggests that a constituent representative convention should be elected on the basis of universal suffrage. That an independent national government, without the protection of the United States, would, however, be "more than an experiment," is, he declares, something that "its most earnest champions would not assert"; but he maintains that, if the majority of the people of Cuba desire such a government, "they must be allowed to try it."

Mr. Porter's book, though it speaks, as does Mr. Pepper's, of the civilization of "the home, the schoolhouse, and the church," which is to be cultivated in Cuba, is chiefly devoted, as its title indicates, to an exposition of the industrial opportunities in the island. The merit which the author claims for his work is that of "the freshness and originality of the material"; the demerit, which he confesses, is that it was "written by one who was obliged to snatch a few hours at a time to map out or write a chapter." An examination of the material will soon prove that the claim of "originality" is too sweeping, and that the "freshness" often consists in the style rather than in the matter. The first three chapters, for example, exhibit little or nothing original; nor is it, under the circumstances, strange that they betray, in expressions of the author's personal opinions, a want of deliberation. Bad as the Spanish administration was, probably few persons would concur in the assertion that "even before the present war Cuba was already ruined" (p. 11). Again, it is quite true that questions between Spain and Cuba were usually decided "at the expense of Cuba"; but to add, as an illustration of "irresponsible" government, that "the single signature of a Minister of the Colonies was sufficient to make the fortune of a man for his whole life" (p. 11) is merely to assert what is true of the power of high officials, in all departments of government, the world over. At page 111, after a reference to the death rate in Havana for eleven

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months of the year 1898, we observe the assertion that, while the figures for that year, owing to the war and the general disturbance of affairs, greatly exceed those for other years, yet "even in the healthiest years the death rate was two or three times greater than the average of other cities." On page 145, however, we find the statement that "the death rate of Havana is about 33 per 1000, a figure 25 per cent in excess of the majority of American cities." Nor is the information given on many subjects by any means comprehensive. The third chapter, on the "Political Future of Cuba," consists, for example, of a summary of a pamphlet written by Mr. F. Figueras, in advocacy of annexation to the United States; an expression of views by Mr. A. Muñoz, who hints at the same measure; an interview with the Marquis of Apezteguia, president of the Conservative party, who strongly advocates it; and an opinion of Gen. M. C. Butler, who would "like to see Cuba a state in the American Union." A valuable special chapter, numbered XI, is devoted to extracts from the report of Colonel Waring on the sanitary condition of Havana. The material gathered together in the various parts of the volume, in relation to population, public health, education, municipal problems, revenue and finance, agriculture, mining, commerce, transportation and navigation, includes much that is interesting and useful; and the fact that it was collected and arranged in so short a time attests the author's energy and activity. But it needs to be used with discrimination.

J. B. MOORE.

Tropical Colonization. An Introduction to the Study of the Subject. By ALLEYNE IRELAND. New York, The Macmillan Company, 1899. — 282 pp.

As Mr. Ireland well says in the preface of his work, the American people have never been interested in tropical colonization, because they have never had any reason to be interested in it. With the recent alteration in the policy of the government, all this has changed; and great is the demand for information on almost every conceivable phase of the subject. Mr. Ireland has had the good fortune to spend most of the past twelve years in the British colonies and dependencies and has paid long visits to some of those of other states. He has written this work with the avowed intention of having it serve as a text-book; and, although it is far from filling the requirements of a comprehensive text-book, it does discuss some of the problems, at all events, clearly and tersely.

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After an introductory chapter on the "Idea of Colonies" and the "Development of Colonial Systems," we find a chapter devoted to "Forms of Government in Tropical Colonies." This is nothing more than a sketch — although a very good one. The treatment of the French colonies, for instance, in three and a half pages, cannot be said to be in any sense adequate. The remainder of the book is devoted entirely to economic problems. Among these, only two are singled out for discussion — namely, the general treatment of the "Flag and Trade" and the consideration of the "Labor Problem." Nothing is said about the fiscal conditions of the colonies, about the question of internal improvement (apart from the labor question), or about the host of other economic problems that will soon force themselves upon our attention. But on these two points the treatment is full, if not ample; and the conclusions are interesting, if not convincing.

With reference to the query whether trade follows the flag, Mr. Ireland has made a collection of very detailed tables, from which he draws eighteen conclusions — of which the last is the most important:

> There is no evidence in the above facts [says he] that trade follows the flag, in the sense that possession of a country produces any extraordinary development of trade between the dependency and the dominant country. On the other hand, where the alternative lies between possessing a given territory, or allowing it to pass to the control of a nation which will erect formidable barriers against the trade of foreign states, possession is the only effective method of assuring a fair proportion of trade to the interested country.

Students must be warned, however, that this negative conclusion ought by no means to be considered as final. In an article on the same subject by Mr. Flux, which appeared in the *Journal of the Royal Statistical Society* only a few months ago, we find in the summary of results the statement that, of the external trade of the British colonies and possessions, over one-half is with the mother country and over sixty-five per cent within the British Empire; and that, in the case of the French colonies, sixty per cent of the colonial trade is with the mother country. These figures do not tally with those given by Mr. Ireland. We must, in short, wait for a far more careful investigation of the subject, before we shall be able to say that all the great modern nations are making a huge economic mistake in attempting to extend their colonial empires.

More important are the chapters which deal with the labor problem. Mr. Ireland gives a sketch of the abolition of slavery in the

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English colonies, and of the indentured labor system which replaced it in the West Indies and in British Guiana. It may be queried whether he does not throw too rosy a light on the system of imported contract labor, but the facts themselves are undeniably valuable. Another chapter deals with the "Solution of the Labor Problem by the Dutch," through the so-called "culture-system." This, although considerably modified in 1871, is strongly approved by the author. The last chapter, on the "Colonial Policy of the United States," contains a few vague generalizations of little use. Perhaps the best part of the whole book is the selected bibliography of some twenty-five pages.

As a pioneer work on this subject, Mr. Ireland's book is to be welcomed. But much more remains to be done before a satisfactory text-book can be written.

EDWIN R. A. SELIGMAN.

The Economic Foundations of Society. By ACHILLE LORIA. Translated from the second French edition by LINDLEY M. KEASBEY. London, Swan, Sonnenschein & Co.; New York, Chas. Scribner's Sons, 1899. — 385 pp.

It is difficult to estimate this volume properly. It combines so many good and bad features; so many shrewd observations on modern society, together with so much vicious reasoning; so much erudition, with such persistent iteration of a false thesis; such wide acquaintance with the facts of history and so little appreciation of their real significance, that the reader is at a loss to know whether to rank the book among the great economic treatises, or to consign it to a place in the category of "crank literature." On the whole, it is worth reading, for two reasons. In the first place, it furnishes a distinctly original view of industrial society and of the forces which dominate it, and is certain to make the reader reëxamine some of the premises of his social philosophy. In the second place, it is an excellent example of the facility with which a skillful writer can bend all the facts of literature, history and science to the support of his thesis. In this respect, the work before us resembles Mr. George's *Progress and Poverty*, though it is by no means so readable. It should be remembered, however, that in this particular it probably shares a fault common to all translations.

The strength of the work is found, not in the author's position, but in the array of evidence which he has gathered to its support and the skill with which he has presented it. For this reason the

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reviewer hesitates to outline the author's position, lest an injustice be done. Care is, therefore, taken to use the author's own words, so far as this method is consistent with the necessary brevity.

The division of society into two great classes, those who work and those who accumulate wealth, is not, says the author, due to conditions inherent in human nature, but to "certain historical tendencies that are bound to disappear at a later stage of social evolution." The first of these historical tendencies is the suppression of free land. "While free lands exist that can be cultivated by labor alone, and when a man without capital may, if he choose, establish himself upon an unoccupied area, capitalistic property is out of the question; as no laborer is disposed to work for a capitalist when he can labor on his own account upon land that costs him nothing." "Access to free lands, whence laborers derive their power and independence, must consequently be, in some way, cut off before capital can acquire any profits." One wonders that it did not occur to the author that lands may be of different degrees of fertility; that, if the unoccupied area is of an inferior grade, the laborer might prefer to work for a capitalist rather than to take up free land; and that those who occupy the better grades of land will enjoy a rent, even though free lands still exist.

With the suppression of the free lands, according to the author, comes the exploitation of the laborer, followed, on the one hand, by the reduction of wages to a minimum and, on the other, by the creation of a capitalistic class who succeed in obtaining an income without working. "Besides thus radically affecting distribution, the suppression of the free land also exercises two opposing influences on production." On the one hand, the suppression of the free land, and the consequent reduction of the laborers to a position of dependence, brings order out of chaos, coördinates the efforts of laborers and substitutes coöperation for isolated production. This means an increase in the productive capability of a community, and from that point of view is an advancement. But, on the other hand, such compulsory coöperation is still inferior to voluntary coöperation; and accordingly, in the interest of larger production, voluntary coöperation is the end toward which social progress is tending. In accordance with this tendency, slavery has given way to serfdom, and serfdom to the wage system, which must in its turn give way to something better; because social and economic institutions are dictated by capitalistic property, in the interests of a larger production of wealth.

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This is not a bad idea; but what has the suppression of free land to do with it? Here we meet the author's main thesis.

> In order to support itself, capitalistic property must furthermore have recourse to a series of what we may call *connective institutions*, whose special function it is to guarantee property against all reaction on the part of those excluded from the soil. The most important of these so-called connective institutions are: *morality*, *law* and *politics*. These great social phenomena may, accordingly, be regarded as organic products of capitalistic property; as property, at least, metamorphoses and adopts them to suit its own ends [Introduction, p. 9].

In support of this thesis, the author finds that current moral ideas are the product of the self-interest of the propertied class, and are invented for the purpose of suppressing the aspirations of the propertyless class and of holding them in awe of the moral law. Even religion and the idea of God are inventions designed to supplement the force of the moral law and lend sanctity to its decrees in defense of property. Law lends its sanctions to the support of the same conspiracy. Even where these forces are exercised in defense of the poor and as a check against wealth and greed, we have but another evidence of the same tendency. That is to say, if individual capitalists were to go too far in this exploitation, revolution would follow, and the capitalistic class would suffer. Hence it is necessary for capitalists as a class to bring morality, religion and law into play, to check the excesses of individual capitalists.

While it is perfectly evident that the author is suffering from a kind of intellectual astigmatism, any one who is at all informed as to the social and economic conditions of a large part of the continent of Europe, especially the southern and eastern part, can readily understand how such views could be acquired. A student naturally filled with generous impulses and a love of justice, whose studies had lifted his mind into the broader, freer air of economic enlightenment, but whose field of observations was a country where the ownership of land carried with it social prestige, moral privilege and political power, where moral ideas and political and social traditions are the creation of the landholding aristocracy, where rational ideas of economic freedom and the mobility of labor are resisted by a public opinion of adamantine impenetrability, might be excused for taking a pessimistic view.

When he comes to politics, the third of his "connective institutions," the author is on safer ground. It is well known how jealous property holders have been of their political prerogatives, and how

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reluctantly they have yielded to the demands of the masses for political recognition. Even in the most democratic of modern nations, it is easy to see that wealth still has ways of making its influence felt. The author, therefore, can find much to support his thesis, although he writes at times as though he had derived his knowledge of American history from a populist campaign speech. Nevertheless, one does not have to look far to find many illustrations that show the subserviency of publicists and officials to the interests of capital. These illustrations lend powerful support to the doctrine that politics and government are the creatures of wealth and exist solely for its protection. One needs only to recall the fact that a holy horror was expressed in certain quarters at the suggestion that the Supreme Court had gone wrong and needed righting on the subject of the income tax, while a little later, writers in these same quarters were gravely trying to account for the "culpable ignorance" of the Supreme Court as to the anti-trust law; or that the first serious attempt to enforce anti-trust laws in more than one state was made when they were found to apply to labor organizations; or that many of those who oppose all attempts to regulate railroad freight and passenger rates, on the grounds of high moral justice, are still quite willing to prosecute a cab driver who charges them more than the legal fare.

The author makes a really brilliant point, when he argues that most of the political advancement of the masses has been brought about by the "bi-partition of the revenues," through the rise of the *bourgeoisie*. Two kinds of property, land and capital — two kinds of revenue, rent and interest — thus come into competition. The owners of the two kinds of revenue find their interests antagonistic; and out of this rivalry the masses gain advantages, through the desire of each of the rival classes to array them on its side.

The argument suffers occasionally through an incomplete mastery of economic principles — as on page 213, where it is held that a tax on land is an indirect tax on labor: "when reduced thus to an assessment on landed revenue alone," says the author, "this tax is usually shifted upon the consumer; it becomes, in other words, an indirect tax on the laboring classes." It is interesting to see how everything is made to support his thesis. Even progressive taxation is shown to be "in the interest of those whom it burdens" (p. 225). The reader must expect to find many other passages which are vague and whimsical in the extreme.

In support of the fundamental idea of the work — that economic

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revenue is the basis of political sovereignty — the author is able to present a very strong, if not absolutely convincing, argument. The greatest weakness of the reasoning lies in the difficulty of distinguishing between an economic and a military advantage. For example, did the robber barons rise to power because their castles were strong from a military standpoint, or because they were advantageously located from an economic standpoint? It will at once appear that there is little difference between the two ideas. Again, when the invention of modern missile weapons compelled a revolution in military organization and tactics, did political sovereignty pass from the nobles to the commons because the commons were then the source of military strength, or was it because the rise of standing armies made the government dependent upon the wealth-producing classes for revenues to support the armies. On the whole, it would look as though an ingenious writer might make a very strong argument in favor of the counter thesis, that military power is the basis of political sovereignty.

T. N. CARVER.

OBERLIN COLLEGE.

Urgeschichte des Ackerbaues und der Viehzucht. DR. JOH. RICHARD MUCKE. Greifswald, Julius Abel, 1898. — xxiv, 404 pp.

The chief value of this book lies in the introduction, in which the author makes an able plea for the application of the statistical method to prehistoric problems. We should not proceed, he says, on the presumption that order was evolved out of original disorder, but should rather regard social development as a whole and seek to discover the principle of continuity. Ethnologists have contented themselves with collecting accounts of primitive people. These have been used to support various *a priori* theories of the origin and evolution of institutions, no two of which are in accord. Premising uniformity and continuity, the facts of primitive life should be taken as typical examples of the evolutional order, and classified and arranged by the statistical method. Instead of subjective opinion, we should then have objective knowledge of the relations existing among the phenomena of social growth.

Passing over to the origin of agriculture and herding, Dr. Mucke rightly opposes the older view that hunting, agriculture and herding constitute steps in the evolutional process. With Westermarck and Starcke, he emphasizes the importance of place, rather than time, in determining the development. Agriculture originated in lowlands,

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pastoral life in uplands. There were, thus, originally two forms of social organization: that of the sedentary agricultural people, the *Arier*, who settled in long villages, and that of wandering pastoral people, the *Genneten*, who camped in round settlements. Originally opposed, these two social elements were ultimately combined, whence arose civilization, as we know it historically. This is strictly in accord with the modern view. Hence, though Dr. Mucke's book contains no "new theory," it nevertheless throws new light upon this interesting subject of social origins.

LINDLEY M. KEASBEY.

BRYN MAWR COLLEGE.

The Origin and Growth of Village Communities in India. By B. H. BADEN-POWELL, M.A., C.I.E. London, Swan, Sonnenschein & Co.; New York, Charles Scribner's Sons, 1899. — vi, 155 pp.

This book will become the accepted authority for such notions as the general student and reader may wish to acquire regarding the village community in India. It aims "to explain, in the compass of a few pages, and as untechnically as possible, the nature and origin of Indian village communities" — and, it may be added, to set right those people who have been led astray by the writings of Sir Henry Maine. This is what Mr. Baden-Powell's larger book on this subject also aspired to do; but it defeated its purpose by enwrapping the reader in such multiplicity of technical details, in so many repetitions and in so much hazardous theorizing, that probably few readers were courageous enough to finish it. So solid, however, were its merits, and so deserving of wider currency were the conclusions presented, that a brief, compact and logical statement of the essentials for popular and class-room use was recognized by all as a great desideratum. To Professor Ashley are we indebted for the suggestion that directly led to the writing of the shorter book.

Mr. Baden-Powell has concentrated his entire attention upon those aspects of the subject which all students of the history of early institutions ought to know: the varieties of the villages, their character, their environment, the races who founded or transformed them, and the ideas which their inhabitants seem to have had regarding their own relation to the land and the state. He has also devoted a chapter to the sources of information, with the definite purpose of noting the character of the evidence accessible to Sir Henry Maine. The result is eminently satisfactory. The two types of villages, the *raiyatwâri*, or "severalty village," and the "joint vil-

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lage," stand out more clearly than in the former work; and the general conclusion there reached — that no common type of village ever existed in the least analogous to that which Sir Henry Maine described — is even more convincingly presented.

The net result of Mr. Baden-Powell's investigation may be summed up as follows: First, no single type of village community exists in India. Secondly, nowhere is there any evidence of communal holding of land; for in the severalty village each share is held in individual ownership, and in the joint village, of which there are three species, the shares are allotted separately or are held in joint possession or in individual ownership. Thirdly, the villagers apparently had no true conception of pure ownership in the waste or non-used ground. "The ruling idea was allotment of a subsistence share in the tribal territory to every member," says Mr. Baden-Powell; and again, "the right of the original villagers, beyond their cultivated holdings, was not a definite right of ownership, but a vague sort of user, though one limited to their own body." Fourthly, there is evidence to show the existence of rights of superiority over the villages of both classes in the hands of local and tribal chiefs and kings. "The time came when the local chief (now Râjâ) was not content with the produce of the allotment of land in each village, but took a share in the grain of all the holdings." In connection with the origin of the joint families who formed in the joint village a kind of proprietary community, Mr. Baden-Powell says: "In all these cases, observe that the original grant or usurpation was not formally of the ownership; . . . it was the 'king's share,' or perquisites of authority, that were granted." . . . Again he says, "There are cases in which the 'proprietary communities' do not correspond to the several geographical villages as they stand." The bearing of these conclusions upon the problem of the village community in the west and the rise of the manor will be evident.

CHARLES M. ANDREWS.

Les Congrès ouvriers en France de 1876 à 1897. Par LÉON DE SEILHAC. Paris, Armand Colin et Cie., 1899. — xiii, 364 pp.

M. de Seilhac is known already as the author of an excellent account of that politico-industrial complex, the strike at the Carmaux collieries in 1895, and he has published also a brochure entitled *Le Monde socialiste.* He is, therefore, prepared to view the workingmen's conventions from that double standpoint so necessary in France — the political, as well as the economic.

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It is rather remarkable to find a book upon the labor problem based upon "sources"; yet the book before us is of this type. It has, moreover, all the merits and but few of the defects of such treatises. The body of the work is made up of the deliverances of some twenty to thirty labor congresses during the last quarter century. These consist of resolutions, programmes, extracts from addresses, *etc.*, but all are so well chosen and so happily articulated that the book makes really interesting reading. It is presumably for the purpose of enlivenment that some effusions of *l'orateur*, as on p. 74, are reproduced at greater length than their importance would justify. They show, however, the temper of the assemblies, which is something worth noting, in France especially.

It was no easy task M. de Seilhac undertook — to follow the workingmen's organizations through their repeated ruptures, to chronicle at least four bolts at different times, and to keep the resulting new organizations in their proper perspective; but the work is well done. Frequent recapitulations and forecasts, with chronological lists of the eight different varieties of congresses at the end of the book, combine to give a very clear view of what the author aptly calls a labyrinth.

At the first congress, held at Paris in 1876, the socialistic tendency, which is of course always present in France, was hardly apparent, — the fate of the Internationalists was just then too recent history, — but it strengthened itself steadily till, at the Congress of Paris in 1880, the Marxian *programme minimum* was adopted in its entirety. This precipitated the defection of the moderates, in the congress which followed later in that year, at Havre. But the extremists themselves soon wearied of their extremity, expelled their leader — at Saint-Étienne, in 1882 — and emerged from the contest as recognized *possibilistes*. In the course of the next eight years the moderation of the new leaders, coupled with their political ambitions, led to a reaction and another rupture. At this point M. de Seilhac very wisely leaves these more or less political and socialistic organizations to trace the rise of the *parti vraiment ouvrier*. This, in our author's estimation, is the *Fédération des Bourses du Travail*. To the student of "comparative trade unionism" this is the most interesting part of the book, for it is only in the congresses of this Federation that we see anything which is really analogous to the Trade Union Congresses in England or to the conventions of the American Federation of Labor. Formed originally as employment bureaus in the larger cities, these *bourses du travail* have become

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the centres for all the activities of organized labor. Their rapid growth since 1892 has been largely due to their efforts to exclude politics totally from their organization — a policy of which M. de Seilhac himself is evidently a champion. Thus France has at length arrived at the conclusion, reached somewhat earlier in this country and in England, that labor organizations, *as such*, should be economic rather than political in their character.

It is to be regretted that M. de Seilhac has not provided an index for the benefit of those who may wish to follow a given question through the different congresses.

FRED. S. HALL.

BOSTON, MASS.

A Dividend to Labor: A Study of Employers' Welfare Institutions. By NICHOLAS PAINE GILMAN. Boston and New York, Houghton, Mifflin & Co., 1899. — viii, 400 pp.

The wages system in its bare, unsoftened outline is a régime under which the two classes, employers, or work-givers, and employees, or work-seekers, stand opposed to each other in much the same way as buyers and sellers, each looking out for its own interests, each making the best terms possible and each interested in the fortunes of the other but little further than that the latter may be in a position to fulfill its part of the contract. Under this system, industrial forces are organized in two parties whose interests, though they may be identical in respect to general conditions of prosperity, are hostile in the making of the labor contract. Projects for the modification of this system have been numerous and of great diversity.

Extremists, seeing nothing but the evils, have sought to do away with the system altogether and to substitute some form of communism or socialism. Others, less radical, have sought amelioration through various schemes of coöperation and profit-sharing. Finally, there is a large and fortunately rapidly growing class of employers who, while finding insurmountable obstacles in the last two methods, nevertheless seek to lessen the breach between themselves and their employees, by the creation of institutions designed to improve the condition of their employees and to insure their interest in the general welfare of the establishments for which they work. The participation by the employees in these benefits constitutes the indirect dividend to labor from which the author derives the title of his work.

Dr. Gilman has divided his study into three parts, with several appendices. The first part, entitled "The Modern Employer," gives

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the general introduction to the subject. The second part, which is the body of the work, gives in successive chapters an account of the institutions organized by employers for the benefit of their employees in Germany, France, Holland, Belgium, Great Britain and the United States. Part III, which treats of profit-sharing, with appendices showing the cases in which the system has been abandoned and the concerns in which it is still in operation, serves the purpose of bringing the author's previous volume on profit-sharing down to date. A general summing up is presented in the final chapter, and a useful bibliography of the subject is given in another appendix.

Doubtless the most important question suggested by all systematic action of employers on behalf of their workingmen is as to the effect of such schemes upon the independence and spirit of self-help of the latter. The American has little sympathy for anything that savors of paternalism. The guiding principle in all these schemes should be to do nothing for the employees that they can be made to do for themselves. Excellence may be ascribed to the various systems described in almost exactly the degree in which this policy has been pursued. This is not saying that the employer cannot do a great deal. It is often necessary for him to take the initiative; but, as rapidly as possible, the work undertaken should be turned over to the workingmen for management. As a large employer in Belgium once said to the reviewer, it is the duty of the employer to prepare the way for his own abdication. This is undoubtedly the position of Dr. Gilman; and it is therefore to be regretted that, save in the case of the mines of Blanzy, the extent to which the employees participate in the management of the institutions for their benefit has not been more clearly brought out. The usefulness of the book might also have been increased, if the general summary had shown the various forms that employers' efforts have taken, with an indication of the leading examples of each kind of action. In this way would have been given a better idea of the importance of the movement as a whole, and of the lines along which it is moving. Nevertheless, the author has given us a thoroughly good study, much of it the result of personal investigation, of an important class of economic institutions. It is especially valuable as a complement to his previous work on profit-sharing.

W. F. WILLOUGHBY.

WASHINGTON, D. C.

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Hand and Machine Labor. Thirteenth Annual Report of the Commissioner of Labor, 1898. Washington, 1899. — 2 vols.: 1597 pp.

The Commissioner of Labor has once more put economists under obligations by publishing an exhaustive and far-reaching inquiry into the methods and results of the modern industrial system. By joint resolution of August 15, 1894, Congress authorized and directed the commissioner to investigate and make report upon

> the effect of the use of machinery upon labor and the cost of production; the relative productive power of hand and machine labor; the cost of manual and machine power as they are used in the productive industries; and the effect upon wages of the use of machinery operated by women and children; and, further, whether changes in the creative cost of products are due to a lack or to a surplus of labor, or to the introduction of power machinery.

Such a task would seem sufficient to stagger any ordinary statistician, even with the resources of a Department of Labor behind him. It was nothing short of a demand for a complete analysis of modern industrial society — a subject that is engaging the attention of the keenest minds among economists, statesmen and thinking men the world over. Luckily the commissioner accepted the task in a more modest spirit, limiting it both in scope and in method. The last two conundrums proposed by Congress, he passes by as unanswerable. He sagely remarks:

> The general tendency of wages since the introduction of power machinery and the employment of women and children in its operation has been upward, but it will be difficult to decide positively whether such increase is due absolutely to the use of machinery, or to a higher standard of living, or to the increased productivity of labor supplemented by machinery, or to all these causes combined, or to other causes. . . .
>
> These remarks apply equally well to the broader question as to whether the changes in the entire creative cost of products are due to a lack or to a surplus of labor, or to the introduction of power machinery; the changes in the cost of production have generally been toward lower rather than increased cost. There would be no quarrel with the conclusion that machinery tends to lower the cost of products, and when it is known that under the machine method there is, as a rule, an increased demand for labor, the bearing of the supply of labor becomes problematical.

In both of these cases the statistics furnish valuable material and are indicative of the truth, but they do not give conclusive answers.

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The scope of the inquiry is, therefore, narrowed to the question of the effect of machinery upon cost of production and wages of labor.

The method to be employed is the statistical. We have abundant qualitative evidence from observation that machinery has cheapened production, and that the modern machine-using laborer is no worse off than his predecessor who worked by hand. Can we get exact measurements of these relations? This is the task Commissioner Wright set before himself. In a great variety of articles, mostly manufactures, he has investigated carefully the process of production now and formerly, trying to determine the labor-time and the cost of the labor required to turn out the same commodity at the two periods. The details of the new and of the old processes are described with great minuteness. The result is a mass of most interesting information, the mere analysis of which requires more than four hundred pages. On every page the economist will find new and striking illustrations of the advantages of the division of labor, of production on a large scale and of the factory system.

The general conclusion is that in almost all cases the time required for production has been enormously reduced, and with it the labor cost. The labor cost, however, has not been reduced, as a rule, so much as the time cost, confirming the proposition that wages have kept up, while the cost of living has been reduced. In the case of ploughs, for instance, the time required for production has been reduced in the ratio of 31 to 1, while the labor cost has been reduced only in the ratio of 7 to 1. Other striking examples are given of the same tendency; and this, in fact, is one of the most interesting results of the investigation.

In using this volume it should be remembered that, while the statistical method gives us ostensibly accurate results, they are not really exact. As the Commissioner points out, it is almost impossible to find an article produced by machinery which is the same as the one formerly produced by hand labor. The modern plough is a different tool from the old hand-made plough. We are not comparing the costs of production of the same thing, when we say that ploughs are seven times cheaper than they used to be. Generally speaking, however, quality has improved, so that our results can be safely accepted. Again, the line between machine-made and hand-made products cannot always be drawn; for hand labor enters into the modern product and machinery was often employed under the old system for part of the work. The comparison is, therefore, not strictly between hand labor and machine labor. Finally, the details

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are so different for different articles that we can reach no average figure for the whole line of products. The attempt to reach such a general expression would defeat itself, and the Commissioner has wisely refrained from it. All this is simply saying that the method is symptomatic — that it shows us what has been the *tendency* in the modern industrial changes. While experts will doubtless find some things to criticise in these presentations, the general fact of the enormous reduction of labor cost by the introduction of machinery comes out with new and striking emphasis.

RICHMOND MAYO-SMITH.

Die Effectenbörsen und ihre Geschäfte. Von DR. BRUNO MAYER. Vienna, Alfred Hölder, 1899. — xii, 210 pp.

Die Waarenbörsen, deren Einrichtung und Bedeutung für den internationalen Handel. Von DR. RUDOLF SONNDORFER. Vienna, Alfred Hölder, 1899. — 56 pp.

When German economists have once started a quarry, it seems to be inevitable that there shall be no let-up in the vigor of the chase, however much the victim may be exhausted or however many pursuers there may be on the same trail. A few years ago the question of the influence of stock and produce exchanges became of pressing practical importance in Germany and began to attract much attention from economic writers. Since that time there has been an unceasing output of essays, monographs and comprehensive treatises dealing with the subject, some of them of high value but many presenting only repetitions of well-worn arguments. Dr. Mayer's book is, on the whole, of the latter class, and in that regard resembles several of the more recent Austrian publications. It is an exposition of the nature and economic position of the stock exchange, including an account of the different classes of exchange transactions, the different classes of dealers and the different kinds of securities dealt in. The book is not without merit, and is as well worth reading as many others on the same subject; but about all the author has to say has often been said, and in some cases better said.

If, instead of treating the subject in so general a way, the author had dwelt upon the practices of the Austrian exchanges, treating them in the light of the material now available regarding German exchanges, the work would have been of greater value. As it is, its chief interest lies in its references to Austrian conditions. Dr. Mayer states, in his preface, that he has omitted any consideration of

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Commissionshandel and *Emissionswesen*, as not strictly belonging to a discussion of the stock exchange. It happens that these are the very two subjects that would best warrant further investigation and elucidation by German writers; and, while so much remains to be done in these fields, further treatment of the more familiar subjects cannot expect a hearty welcome. The book probably aims to make its chief independent contribution through its analysis of the different kinds of securities, dealers, contracts, and so forth. This takes primarily the form of criticism of definitions, and adds little to the knowledge which one may get, for instance, from so practical a reference book as Saling's *Boersenpapiere*.

The short work by Sonndorfer, on the other hand, is of a very different nature. In the first place, it is not new, being a revised edition of the first section of the author's well-known work, *Die Technik des Welthandels*. In the next place, it deals chiefly with facts, and manages to comprise in small compass, and without appearance of crowding, a surprising amount of useful information regarding the practices and rules of the chief produce markets of Europe. The material has been brought up to date, and the provisions, not only of the new German statute, but of the subsequent state and local ordinances as well, have been given in proper place. The book does not aim to expound principles, but will prove a valuable book for reference purposes.

H. C. EMERY.

BOWDOIN COLLEGE.

The Elements of Public Finance, including the Monetary System of the United States. By WINTHROP MORE DANIELS, M.A., Professor of Political Economy in Princeton University. New York, Holt & Co., 1899. — v, 383 pp.

This little volume is apparently intended by the publishers to serve as a companion for Adams's *Science of Finance*, issued by the same firm. Professor Daniels explains in his preface that it

> owes its origin to the want the author experienced in finding a suitable text for his classes. Such treatises as were at hand proved unsuitable for one or the other of two very different reasons. Either their treatment of financial theory was too detailed, or the scope they allowed to public finance was too narrow to include certain subjects — such as our currency system — which I thought fit to discuss in a somewhat practical manner.

This explanation shows at once the point of view and the general character of the book. Public finance, although defined as a science,

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is treated throughout as an art. The attention is concentrated on the practical bearings of the subject, or upon the "most prominent effects, political and economic, which result from the exercise of this all-important governmental function." As a result of the adoption of this point of view, the book becomes a collection of the personal judgments of the author as to the political or the economic wisdom of the different financial devices adopted by, or recommended to, the government "for the collection and expenditure of funds legally devoted to public ends." The value of such personal judgments generally depends largely on the extent of the author's personal experience in the administration of the public funds, or upon his familiarity with the history and practice of financial administration in different countries. To form such judgments on the basis of a study of the theoretical treatises on the science of finance is a difficult task, which has, however, been performed with some success.

The proper point of view from which to approach the subject of public finance is, perhaps, open to discussion; but, in the opinion of the writer of this review, that adopted by the author is not sound. In no other way than by the search for truth for its own sake, irrespective of any possible application of it, can we obtain absolute clearness of view. It is possibly one of the results of the author's point of view that he includes in his treatise some observations upon the monetary system of the United States. This subject, although made prominent in the title, is not given much space in the book. Yet the inclusion, in howsoever cursory a manner, of a discussion of banking and currency in a treatise on public finance involves a confusion of ideas. The fact is that in this country the officers belonging to the Treasury Department are charged with a number of very different functions. But only so far as these functions relate to the income and the expenditures of the government, as such, do they belong to public finance. If we are to include the issuance of money or banking under public finance, because supervised by the Secretary of the Treasury, why omit the Coast and Geodetic Survey, the Life-Saving Service, the Light-House Service, or the Marine Hospital Service? If the operations of the government, in any of these or other directions, give rise to income or are causes of expenditure, that income or expenditure is, of course, of interest to the student of public finance. But public finance is no more concerned with the issuance of money than it is with the construction of the surveyor's chain, of a lifeboat, of a fog-horn, or of a hospital blanket.

The book is divided into three parts, preceded by an introduction

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on "The History of Financial Systems." These parts deal with (1) "Government Outlay," (2) "Government Income," and (3) "Treasury Management," which includes government borrowing, or public credit. The classification of the subjects discussed proceeds along the traditional lines, and comparatively little new material has been introduced. The discussion concerns the United States chiefly. English experience is referred to occasionally, that of other European countries very rarely. The style is bright and entertaining, and many of the suggestions are novel and interesting.

UNIVERSITY OF CALIFORNIA. CARL C. PLEHN.

Roman Canon Law in the Church of England. Six Essays by FREDERIC WILLIAM MAITLAND, LL.D., Downing Professor of the Laws of England in the University of Cambridge. London, Methuen & Co., 1898. — vi, 184 pp.

Successful revolutions, which establish new law, are usually accompanied or followed by an effort to show that the new law is really old. Where the discovery of legal precedents is impossible, the revolutionists sometimes satisfy themselves with the mere name of law and base their innovations upon "the law of nature." More often, however, they consciously or unconsciously falsify the old law. The extension of papal authority in the middle ages, for example, was attended, at a critical period, by the appearance of forged decretals, running back into the first centuries of the Christian era; and after the triumph of the papal policy these decretals found a place in the official body of the canon law. The triumph of Parliament over the crown in England carried with it the triumph of the Whig theory of English constitutional law, in which the powers exercised by the Tudors were ignored or obscured. The successful revolt of the American colonies from Great Britain legitimized a theory of colonial rights which our historians accepted for a hundred years, and which will not cease to be orthodox until we have thoroughly adjusted ourselves to our new position as a power in possession of colonies. In like manner, the withdrawal of England, under Henry VIII, from the Roman ecclesiastical communion — a withdrawal which made the ecclesiastical court a part of the machinery of the English state — produced the theories: (1) that the law of the church, as established by "the Word of God," had been corrupted by the Roman Church; (2) that papal legislation had never been binding upon English ecclesiastical courts, except by virtue of its "reception"; and (3) that English

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canon law had never been identical with that of Rome, but was, in part at least, the product of insular custom and legislation. The first theory served as a basis for much of the ecclesiastical legislation of Henry VIII's time; the two other theories have been accepted by the English courts and have received, in our own time, the support of the Ecclesiastical Courts Commission. This commission included among its members Dr. Stubbs and other historians "whose every word," says Professor Maitland, "deserves attention."

In the essays of which this book is made up, and which were originally printed in the *English Historical Review* and the *Law Quarterly Review*, Professor Maitland has taken issue on the second and third of these revolutionary theories. He maintains that the decrees of the Roman Church councils and the decretals of the popes were recognized, during the three centuries before the Reformation, as absolutely binding upon English ecclesiastical courts. This view he finds clearly expressed in the writings of the English canonists. He shows, without much difficulty, that Dr. Stubbs's views, if expressed in the fifteenth century, would properly have led to his degradation from his bishopric and his committal to the secular authorities to be burned as a heretic. He finds that the English ecclesiastical courts applied papal decretals promptly and without question of their authority, and he can find no evidence of "an ecclesiastical judge . . . rejecting a decretal because it infringes the law of the English Church or because that church has not 'received' it" (p. 84). He shows that all the cases in which it is alleged that England had a special canon law of its own, divergent from the general canon law of Christendom, are cases in which secular law applied by the secular courts had taken the place of ecclesiastical law applied by the ecclesiastical courts. Such a substitution of secular for ecclesiastical law was in no wise peculiar to England. All over the Continent, during the later middle ages, state and church were contending for jurisdiction, and the authority of the secular courts was being extended over more or less of the ground which the church claimed as its own. The ouster of the English ecclesiastical courts from any particular field of the law, and the application, by English secular courts, of rules differing from those of the canon law, no more created a special English canon law than similar occurrences in Germany and in France created a German or a French canon law. To prove that the national law became English canon law, it would be necessary to show that the English ecclesiastical courts accepted and applied it. Professor Maitland, however, shows the contrary. The church not only left to

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the state the enforcement of the secular rules of law, but it refused even to assist the state in applying them. When, for example, the bishops were asked by the justices (in inheritance cases) whether a child had been born before or after the marriage of his parents, they refused to answer the question, because by answering it they would have aided the justices in applying a rule of legitimacy different from that of the canon law. This is the antecedent history of the famous declaration of Merton. The result was, of course, that the church lost its jurisdiction over the question of legitimacy in inheritance cases. Questions of legitimacy, however, continued to come before the ecclesiastical courts, in another class of cases over which their jurisdiction was complete; and, in determining the legitimacy of a candidate for orders, it appears that they continued to recognize the Roman *legitimatio per subsequens matrimonium* (pp.53–56).

The only point, it seems to me, in which Professor Maitland's book leaves room for further discussion is to be found in his treatment of the doctrine of "acceptance" (pp. 31, 32). The *Decretum Gratiani* asserts: Sicut enim moribus utentium in contrarium nonnullae leges hodie abrogatae sunt, ita moribus utentium ipsae leges confirmantur. Following out this thought, the canonists speak of constitutions that are not binding because they have not been "accepted." Now it may be admitted, as Professor Maitland says, that the cases in which non-use or contrary use was invoked against papal legislation were very trivial, but it can hardly be conceded that the dicta in question are to be taken to mean only that written laws may fall into desuetude. The doctrine of desuetude logically carries with it the doctrine of acceptance, or at least non-acceptance; for if laws can cease to be binding through discontinuance of application, it is only consistent to say that a law never applied has never become binding.

The doctrine of desuetude, however, was borrowed by the canonists from the civil law; and in the civil law it is subjected to a limitation which Professor Maitland does not notice, but which, if it constituted part of the canon law also, would be most important for his purposes. Local laws may be abrogated by non-use or contrary use in the locality, and general laws may fall into general desuetude; but general laws cannot be affected by a purely local failure of application. Were not the canonists bound to take the same position? The mediæval Teutonic state, of course, took the opposite view: "*Stadtrecht bricht Landrecht und Landrecht bricht gemeines Recht*," was true whether the laws in question were written or customary. But this Teutonic theory, however accordant with the Teutonic idea of the

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state, was wholly inconsistent with the ideas of the church; and the canonists, it seems to me, should have taken the Roman view. Yet Professor Maitland cites at least two cases in which John of Ayton and Lyndwood apparently accept the Teutonic theory (p. 32, n. 1; *cf.* p. 10, n. 4). This whole question deserves a thorough reëxamination.

There is, again, a rule of mediæval pleading which the civil courts seem to have taken from the ecclesiastical courts, and which, if I am right in supposing it to have been an ecclesiastical rule, would go far to make the doctrine of "non-acceptance" one of little practical value. I refer to the rule that he who pleads a rule of the general Roman law "*fundatam habet intentionem*," and need not plead or prove the absence of a contrary local law or custom. The burden of proving contrary local usage was by this rule thrown upon the other party.

Professor Maitland not only shows that, in the English theory and practice of the thirteenth, fourteenth and fifteenth centuries, papal legislation was recognized as binding the English ecclesiastical judges; but shows also, in his third essay, how the papal power of legislation grew out of the papal jurisdiction, and how much Englishmen did to promote the development of that jurisdiction. The position of the pope, however, as "universal ordinary," — with power of receiving complaints, not merely on appeal but also in first instance, and of delegating the trial and decision of cases, with instructions as to the law to be applied, to any persons whom he chose to appoint, — would seem less extraordinary to the reader, if Professor Maitland had mentioned the fact that it rested on imperial precedents, and that the pope acted in ecclesiastical cases precisely as the Roman emperor had acted in civil cases.

At the close of his fourth paper, in which he discusses the legal issue between Henry and Becket, Professor Maitland remarks:

> I believe that a little research among foreign books would strengthen us in our conviction, by showing that the scheme which I have attributed to [Henry], the scheme which sends the clerk to and fro between the royal judge and the bishop, had for a long time past been a well-known arrangement, and was one that Henry was likely to regard as ancient and legitimate [p. 146].

This is undoubtedly true; and it is to be regretted that the author, who has made such extensive researches for these essays, did not undertake this little additional investigation. He would, I think, have been able to show us that Henry's scheme was the scheme that had been worked out in the Frankish Empire; and he might have found it possible to connect the false Isidore's forged decretals (cited on

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page 141) with Carolingian capitularies, instead of seeking their prototype in a constitution of Arcadius and Honorius.

Professor Maitland has, however, done so much for us in these essays, and has done it so well, that it is hardly fair to quarrel with him for stopping wherever he sees fit. His main theses, it seems to me, are fully established; and he helps the reader in a hundred lesser points to a better understanding of English history in the later middle ages. A book like this — touching, as it does, upon matters with which every English historian of the period has to deal — makes us realize how flabby history is without the backbone of law; and if the "pure" historian has not time to undertake such researches for himself, he should at least appropriate the results which the legal historians are working out for him.

The late Professor Seeley, as is well known, had a deep-rooted prejudice against history that tried to be literature; and it may be conceded that when the literary instinct is not under strict control, it is a dangerous gift to the historian, or indeed to any writer whose business it is to tell the truth. When, however, as in Professor Maitland's case, facts are neither twisted to perfect an epigram nor whittled away to point a climax, we can enjoy the historian's felicity of phrase and power of dramatizing a situation without even a vicarious twinge of conscience; and we can wish, without any mental reservation, that other scholars, whose material is equally solid, were able to present it with the same polish.

MUNROE SMITH.

Du Rôle des chambres en matière de traités internationaux. Par ALBERT DAUZAT, Docteur en droit. Paris, Félix Alcan, 1899. —219 pp.

This monograph is divided into four parts, the first of which relates to questions of doctrine, such as the modes of legislative sanction, the extensions and limitations of the legislative sanction, and the legislative sanction from the point of view of international law; the second, to the history of the English constitution; the third, to the constitution of France; and the fourth, to the study of certain foreign constitutions, including those of the United States, Spain, Italy and the German Empire. In the development of constitutional government the legislature has, as the author points out, been invested with certain powers in respect of the making of treaties. The time and manner of the legislative participation depend upon the provisions of the various constitutions, or upon customs which have acquired the prac-

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tical force of fundamental law. The tendency, however, has been to leave the initiation and conduct of negotiations to the executive, reserving the power of approval or disapproval to the legislature.

But, even where the constitution requires the legislative sanction in one form or another for the making of treaties, questions often arise as to whether an international agreement of a certain kind constitutes a treaty in this sense, so as to come within the requirement. With reference to this question, the author divides treaties for which the legislative sanction is requisite into three classes: (1) Those that cannot be executed without the concurrence of the chambers, such as those involving subsidies, changes in public or in private law, or matters of commerce. (2) Treaties affecting the territorial dominion of the state. (3) Special treaties, such as a treaty of offensive alliance under the Spanish constitution. It is obvious, however, that this classification can be considered as only approximately accurate. The final test is the actual law and custom in each state; and generalizations on the subject possess little value, unless founded upon a more thorough examination of particular cases than the author appears to have made.

In the United States, apparently owing to the inconveniences involved in the peculiar constitutional provisions as to the making of treaties, a practice has grown up of concluding international agreements which, though commonly called treaties, are entered into on the strength of previous legislation and without employing the treaty-making power. In this category are postal conventions, the reciprocity agreements effected under the McKinley and Dingley acts, and international copyright arrangements under the act of 1891.

In the discussion of the various questions embraced in his work, the author has relied chiefly on secondary sources, with the result that his statements are not always either definite or correct. In one place (p. 45) he refers to the irritation caused in England by the rejection in the United States Senate of "the treaty of commerce of 1865." The incident to which he probably intends to refer is the notice given to Great Britain in that year, under a resolution of Congress, of the intention of the United States to terminate the reciprocity treaty of 1854, in accordance with its terms. No question of senatorial approval of a treaty was involved in the case. In another place (p. 194) he states that the Senate always deliberates on treaties "in secret committee." This is, indeed, the usual practice; but there was a notable departure from it in the instance of the fisheries treaty of 1888, which was debated in open session and at length rejected

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in August of that year. Again, relying upon an imperfect reading of Bryce's *American Commonwealth*, he represents the President as being "in constant relations with the majority of the Senate" and as keeping "the leaders of the principal parties" in touch with the negotiations themselves. Mr. Bryce's text is far from justifying these representations. The author also states that it is a rare thing for the Senate to reject a treaty; and in this relation he adverts to the effect produced in England by the defeat of "the Anglo-American treaty of 1859." The particular treaty to which he probably intends to refer was the Johnson-Clarendon claims convention of 1869. But it was not so much the rejection of this treaty by the Senate, for which there were ample precedents, as the circumstances attending the rejection, that created feeling in England. The author also discusses the question whether, "in concluding a treaty, the President is bound by the legislation of the different states of the Union." He states that this question has been decided in the negative, upon the strength of the constitutional provision, which he quotes in an imperfect form, that the judges in every state are bound by treaties, anything in the constitution or laws of any state to the contrary notwithstanding. The subject would have been made clearer, if the author had quoted in its original form the whole of the clause (Art. vi, Cl. 2), of which the phrases cited by him form only the concluding part. It would then have appeared that the constitution, the laws made in pursuance thereof, and treaties made under the authority of the United States, are expressly declared to be "the supreme law of the land," and that it was with a view to assuring the observance and enforcement of this principle that the declaration as to the judges in the various states was added.

J. B. MOORE.

The Necessity for Criminal Appeal, as Illustrated by the Maybrick Case and the Jurisprudence of Various Countries. Edited by J. H. LEVY. London, P. S. King & Son, 1899. — xii, 609 pp.

The editor of this volume is to be commended for the fullness with which he has placed the facts in the Maybrick case before the public. While his own opinions on the case, and the grounds upon which they are based, are fully stated, he affords the reader an opportunity to form an independent judgment, by spreading before him the full record of the trial, including the testimony of the witnesses, the speeches of counsel and the charge of the presiding justice. In addition to these things, he presents what may be called the after-

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discovered or after-accumulated evidence, together with an account of the efforts that have been made before successive Home Secretaries to secure the prisoner's pardon and release. Upon the ineffectualness of these efforts, in spite of circumstances which should, in his opinion, have produced the opposite result, he bases his argument for the establishment of criminal appeal in England; and he fortifies his argument by a collection of essays on the provisions made in the laws of other countries — the United States, France, Germany, Italy, Norway, Portugal and Switzerland — for the reparation of judicial errors by appeal from the judgment of the trial court to a higher judicial tribunal. These essays are specially contributed by citizens of the countries to which they relate — that on the law in the United States by Mr. Max J. Kohler, late Assistant United States District Attorney in the city of New York.

The "criminal appeal" here spoken of means an appeal which shall embrace the facts, as well as the law of the case. There already exists in England, in criminal cases, an appeal as to matters of law, although it may be an "imperfect" one; and, up to the time when the case of Mrs. Maybrick came before the Home Office, the complaints as to what was done rest upon an alleged erroneous appreciation, by judge and jury, of matters of fact, rather than upon any errors as to matters of law. Certain circumstances in the case, besides suggesting a motive for crime and tending to show that the crime charged was actually committed, also tended to create prejudice against the accused. Mr. Hapgood, Recorder of Liverpool, who was present throughout the trial, expresses the opinion that "the evidence of the cause of death was so contradictory and so much in balance that the accused ought to have received the benefit of the doubt." It is not suggested, however, that it was not within the province of the Home Secretary to consider this question. On the contrary, it was, and is, a question peculiarly within his competency on an application for executive clemency.

Herein lies the weakness of Mrs. Maybrick's case, as an argument for judicial appeal in criminal cases. The argument drawn from it specially strikes at that part of criminal procedure which at the present time stands most in need of protection from unnecessary interference — namely, the deliberate judgment of the jury on the facts. Even if it be admitted that a change in the methods of the Home Office would be conducive to justice, it does not necessarily follow that a judicial appeal embracing facts as well as law should be provided, so that there may be two judicial judgments on the facts and

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the law, followed by an unrestricted executive judgment on an application for clemency, before a criminal sentence can be executed.

The volume now before us presents no exception to the rule that the advocates of criminal appeal generally point to the existence of appeals in civil actions as conclusive proof of the injustice of denying them in criminal prosecutions; and yet the two cases are so dissimilar as scarcely to afford an analogy. Among the fundamental differences may be mentioned the following:

1. Under the rule, as almost universally administered, of exemption from a second trial for the same offense, the defendant, upon a verdict of acquittal, at once and forever secures the benefit of all errors made in his favor by judge or jury, so that by no process, judicial or executive, can he afterwards be deprived of it. In civil cases an appeal is open to both sides, impartially.

2. In civil cases the verdict of the jury, though it must be unanimous, is rendered upon a mere preponderance of evidence. In criminal cases the defendant, if the jury entertain as to his guilt a "reasonable doubt," is entitled to an acquittal.

3. As to judgments in civil cases, the executive possesses no power of interference; the only means of correcting injustice is by a judicial appeal. In criminal cases an appeal lies to the executive, who, in the exercise of his power of clemency, may remit or commute the sentence, on any ground of law or of fact, or indeed on no ground whatever except that he wills to do so.

It is a notorious fact that the constantly expanding possibilities of judicial appeal, added to the onslaughts so frequently and sentimentally made upon the executive, have in many places deprived the verdict of the jury, if adverse to the accused, of all efficacy, and have reduced the administration of the criminal law to a farce. When, in connection with this unfortunate result, we consider the advantages enjoyed by the defendant in a criminal case over those possessed by the defendant in a civil suit, we are justified in saying that the argument for the establishment of a judicial appeal, embracing facts as well as law, in criminal cases, where such appeal does not now exist, is by no means one-sided. Personally, I am inclined to think that the constitution of a small committee, consisting chiefly of judges, to advise the executive on the whole case, would be preferable.

J. B. MOORE.

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BOOK NOTES.

In his *L'Allemagne nouvelle et ses historiens* (Paris, Felix Alcan, 1899. — 356 pp.), Antoine Guilland, professor of history in the École Polytechnique Suisse, emphasizes the national spirit which has inspired the German historians of the nineteenth century and tries to show how much these writers did to arouse the popular sentiment which Bismarck needed for his work and to formulate the ideas which he translated into facts. Professor Guilland studies also — and this is the *leit motiv* of his book — the seamy side of this nationalistic renascence, maintaining that it has vitiated German historiography, destroyed German idealism and corrupted the German conscience. The Prussian heroes, from the Great Elector to Bismarck, have been almost canonized, and *das specifische Preussenthum* has been treated as the last word of human progress, while modern French history has been distorted and French national psychology caricatured. The exaltation of action, as contrasted with thought, and the worship of successful violence, as the judgment of history or of God, have fostered a brutal and cynical realism which in the end has shocked its intellectual authors. The development of these theses presents little difficulty when Professor Guilland reaches Treitschke; but his criticism of Sybel does not carry complete conviction, and his attempt to connect Niebuhr, Ranke and Mommsen with the tendencies which he finds in Sybel and which every one finds in Treitschke is by no means successful.

In *La Vie parlementaire à Rome sous la République* (Paris, Albert Fontemoing, 1899. — 418 pp.), M. Mispoulet, the well-known authority on Roman political institutions, has essayed a novel presentation of the history of the last twenty years of the Roman republic. The whole drama, from Catiline's conspiracy to the murder of Cæsar, is enacted in a single scene — the floor of the Senate. What happens there we see; what takes place outside is narrated incidentally. The experiment does not throw as much new light as the author claims upon the history of the period; and the analogy between the conflicts in the Roman Senate and the parliamentary struggles of our own time is occasionally strained; but the book helps us to appreciate the form in which the political issues of the period presented

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themselves, and it aids us in a much higher degree to realize the Senate itself — its organization, its powers and its procedure. Chapters IV and V of Book II, which treat of the Senate building, and an excursus in Book III, Chapter XIX, on Pompey's portraits, are purely archæological, but all the rest of the treatise is political.

As an appendix to his *England in the Age of Wycliffe*, Mr. Trevelyan has edited a slender volume (pp. xiii, 81) of hitherto unpublished documents, under the title of *The Peasants' Revolt and the Lollards*. Mr. Edgar Powell's name appears on the title-page in conjunction with that of Mr. Trevelyan, presumably because it was through him that Mr. Trevelyan became acquainted with this material. The volume is of value primarily as a means of verifying the results obtained by Mr. Trevelyan, and secondarily for seminar work in the universities. The usefulness of the collection is enhanced by an able introduction, pointing out the significance of each set of documents published.

In *The Growth of the Constitution in the Federal Convention of 1787*, by William M. Meigs (Philadelphia, J. B. Lippincott Company, 1899. — 374 pp.), an effort is made to trace the origin and development, in the convention, of each separate clause, from its first suggestion in that body to its final form. The result is a convenient and useful manual, which, although it cannot supersede, and was not intended to supersede, original research for critical purposes, will serve as a helpful guide to the student and investigator. The volume contains a special account of some defeated proposals, and also a facsimile of a heretofore unpublished manuscript in the handwriting of Edmund Randolph and John Rutledge. This manuscript has been referred to by other writers, and part of it was published in *Scribner's Magazine* (September, 1887) and again in the *Life of Edmund Randolph*, by Mr. Moncure D. Conway, who treated it as a draft drawn by Randolph before the meeting of the convention. Mr. Meigs, however, maintains that it was the first draft of the constitution made for use in the committee of detail.

The Life of Charles Jared Ingersoll, by his grandson, William M. Meigs (Philadelphia, J. B. Lippincott Company, 1897. — 351 pp.), is a well-told story of a long and interesting career. While Mr. Ingersoll did not achieve the highest distinction, either in literature or in statesmanship, he earned a creditable place in both, and he stood among the leading men of his time as an advocate at the bar. As an author, his best known production is his *Historical Sketch of the Second War between the United States of America and*

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Great Britain, in four volumes; but his other writings range all the way from plays and essays on life and manners to disquisitions on political and legal topics. One of the most interesting things given in the present biography (pp. 108–138) is a diary kept by Mr. Ingersoll during a visit to Washington in February, 1823. At that time the affairs of Spain formed an agitating subject, and the question of Cuba was at the front. A Cuban agent was in Washington, in communication with the government; and it was thought probable that, in case of a radical change in the constitution of Spain, the Spanish as well as the native inhabitants of the island would apply for the protection of the United States and for admission into the Union; and there was a general determination among our public men to resist in any event the acquisition of the island by a European power. The diary is, however, by no means confined to political subjects. It throws a vivid light on the state of society in the national capital, and introduces many of the leading men of the day in politics and diplomacy in their personal relations. It may be said of the volume, as a whole, that it is both instructive and entertaining.

Norman Hapgood's *Abraham Lincoln* (Macmillan, 1899. — 433 pp.) is a "personal history" of the great president. It consists of facts already familiar, even to the general reader, but so selected and arranged as to present Lincoln as "the man of the people." The author has produced a most interesting and accurate character sketch. He has used with excellent taste and judgment the bulky Lincoln literature, and evolved from it a portrait that is neither saintly nor diabolical, but convincingly human. The shadows in the life and character of Mr. Lincoln are properly emphasized, while the strength and nobility that he embodied are at the same time faithfully exhibited. From the historical crudities and blunders which too often mar works of this sort Mr. Hapgood's book is entirely free. It is accurate and impartial as history, admirable as biography and delightful as literature.

The End of an Era, by John S. Wise (Houghton, Mifflin & Co., 1899. — 474 pp.), embodies a most effective plea for a sympathetic judgment upon the people of Virginia in the Civil War. In form, the work is a record of the personal experiences of a boy who was but eighteen when hostilities ceased. But the boy, as the son of Governor and General Henry A. Wise, and as a Confederate soldier in the last months of the war, was in a position to see many things and many people in a light that is of great historical value. The "first families of Virginia," who have been so greatly ridiculed and

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maligned by partisan and sectional spite, appear here in a character that no American can fail to respect. In the passing of the old social order in the South there was a world of pathos, and this Mr. Wise, with consummate literary art, reveals through the medium of reminiscences which, on their face, have no far-reaching importance.

Under the title, *Democracy and Social Growth in America* (New York, G. P. Putnam's Sons, 1898. — 129 pp.), Professor Bernard Moses has published four lectures on "A Fundamental Tendency," "Conflict and Socialism," "Education and Democracy" and the "Preservation of the Democratic Spirit." The fundamental tendency is found in a law in accordance with which, "under the forces of normal development, society grows away from the democratic ideal," and, with society, also government. With or without governmental interference, the result of industrial development is essentially the same, and that result is an "increasing inequality," necessitating corresponding governmental change. It follows, therefore, that, although "we sometimes think we have solved the secret of national immortality," the United States must share the "common fate of organized humanity." In fact, judged by this general law, it would seem that the doom of the American democracy and of all other democracies is already written, and will find certain execution in the course of "normal development." In the closing chapter, however, the author is less pessimistic as to the future, and proposes certain measures calculated to counteract the fundamental tendency. In the United States the military spirit, which is hostile to the genius of democracy, should, as a rule, be discouraged; the religious spirit, which stands for conservatism, the sense of duty, and spiritual, in contrast to materialistic, ideals, should be deepened and widened. There should, further, be a revival of the spirit and ideas of "the fathers," as to "the political doctrines which underlie our social organism as formed by the founders of this republic" (p. 115). A certain obscurity covers the last proposition, since the author (p. 112) refers to the "strong advocacy of individual rights" as tending toward the "dissolution of the democratic community," and again (p. 118) declares that, "since the loud proclamation of the rights of man in the last century, the doctrine has operated on society as a disintegrating force." Beyond doubt the political doctrine of "the fathers" was rooted and grounded in this very advocacy of individual rights.

The recent development of theoretical sociology, which has tended strongly toward the substitution of psychological conceptions and

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principles for physical and biological analogies, as the groundwork of the science, has been accompanied by important practical affiliations of sociology with political studies, and more especially with the whole philosophy of democracy. Of the many papers, monographs and volumes which are exploiting this field of study, a book by M. G. L. Duprat, entitled *Science sociale et démocratie* (Paris, V. Giard et E. Brière, 1900. — 318 pp.), is, as a contribution to theory and as a discussion of practical problems, deserving of the serious attention of students. On the theoretical side it is a condensed, but clear and intelligent, critical review of the progress of theoretical sociology to the present time. How well it is brought down to date may be inferred from the fact that several pages are devoted to an examination of the theories of Dr. John Franklin Crowell, as set forth in his recent dissertation on *The Logical Process of Social Development.* On the practical side the author's contention is that democracy will be a stable form of social and political organization, if education in the broad sense of the word is properly organized and guided. The education essential to the success of a working democracy, however, includes more than public-school courses: it must penetrate the family life and mould the character of the future citizen from his infancy.

America in the East, by William Elliot Griffis (New York, A. S. Barnes & Co., 1899. — x, 244 pp.), is a book popular in character, composed of certain papers originally published in *The Outlook*, two articles formerly printed in *Harper's Magazine*, and some "fresh matter" designed to round out the volume. Though the author states, in his preface, that "the American people want facts for guidance," he could hardly maintain for his work a claim to historical value. After referring to our treaty with China, made by Caleb Cushing in 1844, he says: "William B. Reed came to China in the *Minnesota*, but refused to make the *ko-tow*, or nine prostrations, and left the country." It would be difficult to make an impression more utterly erroneous, as to Mr. Reed's diplomatic career in China or as to the condition of affairs there at the time, than that which is conveyed by this sentence. Mr. Reed, in reality, concluded three important treaties, all of which were duly ratified, and two of which practically superseded, as the basis of our relations with China, the treaty of Wanghia. This example of inattention, to which others might be added, suffices to show that the volume needs to be read with much discrimination.

Whether we regard it as a study in "social evolution" or as a

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careful, enlightening description of our new possessions, the Hawaiian Islands, Professor William Fremont Blackman's *The Making of Hawaii* (New York, The Macmillan Company, 1899. — xii, 266 pp.) is in all respects a satisfactory and, indeed, an admirable work. The reader is surprised to learn that Professor Blackman has not spent years in the Hawaiian Islands, and that his sources of information are those official documents and general writings which are accessible to scholars everywhere. His training as a student and teacher of sociology, with his thorough scientific equipment at all points, has enabled him to draw from these sources a picture of Hawaiian tribal society, of the transition from tribal to civil organization, and of the development of a native civilization, which must be pronounced one of the best studies of the social evolution of a people that has ever been attempted. The volume is divided into three parts. In the first part is an account of race, environment, people, political organization, religion, marriage and the family, industries, festivals and games. In the second part we have the story of conquest, discovery and communication with the outside world, and of various resulting changes. In the third part we find an analysis of the present state of religion and morals, of the constitution and laws, of the system of land tenure, of the methods of education, of industries and commerce, and of movements of population, with discussions of the decay of the native population and of the white man in the tropics. The appendices give lists of Hawaiian officials and of American missionaries, and statistical tables. A well-chosen bibliography and an index complete a volume that may well serve as a model for studies in social evolution.

An interesting and suggestive discussion of economic, moral and political problems, considered as problems of social evolution and possible equilibrium, may be found in *Vues contemporaines de sociologie et de morale sociale*, by Henry Lagresille (Paris, V. Giard et E. Brière, 1899. — ii, 264 pp.). The author's preliminary chapter on the fundamentals of sociology is brief and necessarily incomplete; but it has the merit of viewing sociological phenomena from the psychological point of view, and of conceiving of society as essentially a complex of psychological relations. The moral problems considered are those of the individual and the family, the state or civil society, government, economic production and international morality.

It is not without reason that Professor Friedrich Paulsen's *System of Ethics* is generally regarded as, all in all, the most thoroughgoing and satisfactory discussion of ethical concepts, ethical principles and

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practical duties which has been given to the public in recent years. Whether or not the reader accepts the writer's philosophy and standards, he at least finds a perfectly clear and impartially reasoned discussion of every great moral problem, and innumerable suggestions of genuine originality and practical value. To a far greater extent than most treatises on ethics, Professor Paulsen's work deals fearlessly and fully with questions raised by modern industrial evolution; and perhaps for this reason, quite as much as because of his complete grasp of what he calls "the modern conception of life" and of an evolutionary philosophy, his discussion of such topics as the nature and natural foundation of justice, of punishment and the right of punishment, of the relations of law in general to morality in general, are especially illuminating. For all these reasons, the admirable translation by Professor Frank Philly (New York, Charles Scribner's Sons, 1899. — xviii, 723 pp.) is most welcome. The volume is one which every student of sociology and political science will want on his shelves.

The title of a volume by Henri Joly, *A travers l'Europe* (Paris, Victor Lecoffre, 1898. — 374 pp.), hardly suggests the real value of the work, which is found in its record of observations of various correctional and reformatory institutions of different countries. Visiting Finland, M. Joly studied carefully the judicial institutions, the penal code, and the relations of crime and punishment to the peculiar political situation of Finland and its union with Russia. In France he studied the Colonies de Garçons, and in Switzerland the similar institutions at Berne and Sonnenberg. An entire chapter is given to the correctional institutions for girls in France, Switzerland, Holland and Belgium. Studies of various correctional institutions in Austria and in Spain complete a volume that every student of these topics will wish to examine.

The fifth volume of *Annales de l'institut international de sociologie*, edited by René Worms, general secretary of the institute (Paris, V. Giard et E. Brière, 1899. — 509 pp.), contains the papers read at the general session of the Institute in 1898 and maintains the high standard of the previous volumes of this indispensable series. The list of papers includes: "Plan de la sociologie," by G. de Azcarate; "L'Induction en sociologie," by René Worms; "La Théorie organique des sociétés: defense de l'organicisme," by J. Novicow; "La Personalité libre," by C. N. Starcke; "Du Droit penal repressif au droit pénal preventif," by Pedro Dorado; "La Vengeance privée," by Raoul de la Grasserie; "Sur le Droit de coalition," by Albert

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Jaffe; "Formation et évolution du langage," by Charles M. Limousin; "L'Adaptation, est-celle la loi dernière de l'évolution humaine?" by F. Puglia. Of these, the papers by MM. Novicow and Starcke are especially worthy of attention.

Gustave Le Bon's *Psychologie du socialisme*, already noticed in the QUARTERLY, has been translated into English (New York, The Macmillan Company, 1899. — xv, 415 pp.). It is only necessary to say that the translation is a much better piece of work than is the translation of either of Le Bon's other books; just as this book itself, in the original, is a much abler and, in every detail, a more satisfactory book than any of the author's previous undertakings. Although abounding in expressions of M. Le Bon's radical and somewhat narrow prejudices, the work shows mastery of many fundamentally important principles of social psychology; and no student of socialism can afford to pass it by.

Some years ago attention was called in these pages to the first volume of Stammhammer's *Bibliography of Socialism and Communism* (POLITICAL SCIENCE QUARTERLY, IX, 182). Vol. II has now appeared, under the same title, *Bibliographie des Socialismus und Communismus* (Jena, Gustav Fischer, 1900. — 403 pp.), containing additions and corrections to the end of the year 1898. In the eight years that have elapsed the literature of socialism and communism has increased with giant strides. The author has not only included all these new publications, but has added a large number of items overlooked in the first volume. If every decade is to bring another volume of such proportions, it is rather startling to think what a complete bibliography of economics will soon come to mean.

The Old Testament has been studied from many points of view in recent years; but it still remained for some one to consider the social and economic conditions of the Jews in the light of modern investigations into the history of early social and legal institutions. This task has been attempted with some degree of success by Dr. Frants Buhl, in a monograph entitled *Die socialen Verhältnisse der Israeliten* (Berlin, Reuther & Reichard, 1899. — 130 pp.). This work is far superior to the earlier one by Kübel. Dr. Buhl discusses in turn all the different economic relations, and makes interesting comparisons between the conditions of the Jews and those of the Babylonians, the Hindus, the Arabs and the early Germans. Had the author's acquaintance with the most recent literature of sociology and economic history been wider, the results would have been still more valuable. But, as a pioneer work in the attempt to study the social conditions of

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the Old Testament from the modern point of view, the monograph must be accorded a respectful hearing.

An English translation of the work of Professor Nys on the history of economics has been made by N. F. and A. R. Dryhurst, under the title *Researches in the History of Economics* (London, Adam and Charles Black, 1899.—343 pp.). The unfavorable opinion expressed in this QUARTERLY (XIV, 539) in the review of the original work has been strengthened by its appearance in English dress. The list of principal works by the same author, printed in the advertising sheets at the close of the work, shows that his whole life has been devoted to a consideration of problems entirely distinct from economics. This is an explanation, perhaps, of the weakness of the book, but it is no excuse for it.

The classic work of Professor Schanz on the *History and Present Condition of Taxation in Switzerland* will long serve as a model for fiscal historians. An attempt has now been made by M. de Cérenville to accomplish for the French public what Professor Schanz did for the Germans, in a work entitled *Les Impôts en Suisse: Assiette, Quotité, Mésures d'Exécution* (Luzerne, Corbaz & Cie., 1898. — 240 pp.). Instead of the five volumes which Dr. Schanz devoted to the topic, M. Cérenville prints only one. The work is, therefore, far less complete; but it has the merit of possessing brevity and clearness, as well as that of bringing the subject down to date. There are no particularly new reflections or comments, with the exception of the one that the dangers of progressive taxation in the Swiss cantons are more prospective than actual. Switzerland has already partly solved some of the very problems with which we are beginning to grapple in this country; so that the book will be welcome to those students of American finance who are not familiar with German. A series of some twenty-five detailed tables, published as an appendix, gives the salient parts of the property and income-tax laws and the rates of progression in each canton.

Ueber die Idee der einzigen Steuer, by Roger Dollfus (Basel, Benno Schwabe, 1897. — 164 pp.), purports to be a history of the single tax — meaning by that, not alone the tax on land values, but also all other schemes for a single tax. The monograph is a diligent compilation, but contains practically nothing new, and wholly neglects the English literature on the subject.

In view of the present tendencies which are working in some of the American states toward a gradual transformation of the general property tax, a monograph of Dr. Adolf Kölle will be found interesting.

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Under the title *Die Vermögenssteuer der Reichsstadt Ulm vom Jahre 1709; ihr Ursprung und ihre Weiterentwicklung bis zum Ende der Reichsstadt im Jahre 1802* (Stuttgart, W. Kohlhammer, 1898. — 136 pp.), Dr. Kölle gives a clear picture of the details of the general property tax — its origin, its strength, its growing defects and its final decay; and he traces with lucidity the steps in the process of its conversion from a general property tax to a system of real taxes on product. With some modifications, this can be taken as a program of what will soon come to pass in the United States.

It was a happy thought of Prof. Davis R. Dewey to collect the numerous smaller writings of President Walker, and to publish them in two volumes, entitled *Discussions in Economics and Statistics* (New York, Henry Holt & Co., 1899.— 454, 481 pp.). The collection embraces between fifty and sixty articles — many of them, indeed, short and slight, but all of them characterized by the forceful reasoning and balanced judgment of the gifted author. They are arranged under six heads: "Statistics," "National Growth," "Social Economics," "Finance and Taxation," "Money and Bimetallism" and "Economic Theory," and range over a period of thirty years. An unfortunate error of the binder has confused the title-pages of volumes I and II, for in each volume is the title-page which belongs to the other.

Professor Conrad of the University of Halle continues his *Grundriss zum Studium der Politischen Oekonomie* with the first installment of the *Vierter Teil: Statistik* (Fischer, Jena). It covers the history and theory of statistics, together with an outline of population statistics; and is to be completed by two subsequent parts, covering the statistics of economics and of social life. The treatise is intended for the use of students, and constitutes an admirably clear and well-arranged summary of the topics covered. The international comparisons of population, births, marriages, deaths, *etc.*, are taken principally from the works of Bodio, Von Mayr and Von Fircks. But, in addition to such comparisons, each subject is worked out carefully, with numerous citations from the older and the newest authorities. The beginner will find this book a valuable guide to the whole subject, while the more experienced student will discover many suggestive comparisons and reflections.

The last volume of the *Statistisches Jahrbuch Deutscher Städte* (Breslau, 1898) shows what can be done in the way of comparative municipal statistics. This is a coöperative undertaking by Dr. M. Neefe, assisted by the directors of the different city bureaus of sta-

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tistics in Germany. Each author takes a single topic, for which his colleagues furnish him the necessary information, each for his own city. The statistics are arranged under no less than twenty-five headings, covering a great variety of subjects. The vital statistics are very interesting. The death rate in 1895 ranged from 31.78 in Chemnitz down to 17.51 in Cassel. Twenty-four of the cities had a death rate exceeding that of the general death rate of the empire, while in twenty cities the death rate fell below the average. This is an encouraging sign that cities can be made healthful and inhabitable. Comparison of these carefully collected death rates in German cities shows how absurd the death rate return for American cities (as noted below) must be.

The *Bulletin of the Department of Labor* for September, 1899 (Washington, D. C.), contains what may be called the first official compilation of the *Statistics of Cities*. It was a new and very difficult task which the Commissioner was authorized to undertake; and if the result is not particularly successful, this is due to the nature of the material rather than to any lack of zeal or intelligence on the part of the department. The facts collected relate to population, area, deaths, finances and various municipal activities, such as water, gas and electric-light works, schools and libraries, almshouses, police and fire departments, *etc.* The difficulties of uniform classification are enormous. Some of the statistics are evidently absurd. Thus, the death rates range about ten or twelve per 1000 and in some cases are actually reported as less than six per 1000. It will need much careful work on statistics by the municipal bureaus of the United States before even the beginning of such comparisons can be made successfully.

In this connection is to be noticed the beginning of a monthly *Bulletin of the Statistics Department of the City of Boston.* This contains well-arranged statistics of mortality, of immigration, of the inmates of institutions and of pupils in schools, with other statistics relating to city departments and the commercial interests of the city. It is a notable beginning of municipal activity in this direction.

The New York Bureau of Labor Statistics is manifesting renewed life in the publication of a *Quarterly Bulletin of Labor Statistics.* It is to contain, regularly, returns of labor organizations, as to membership, unemployment, amount of employment and quarterly earnings. It gives a summary of labor legislation, of court decisions, of agreements between employers and employees, and miscellaneous

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information in regard to strikes, arbitration, building operations, *etc.* One will naturally be skeptical about the completeness of the returns in regard to unemployment and wages. It rests, however, with the labor unions to make these returns of value to themselves and to the general public. The other items are of interest and well worth bringing together in this form.

Mr. Gifford Pinchot has issued a *Primer of Forestry*, as Bulletin No. 24 of the United States Department of Agriculture, Division of Forestry. "The present part (*The Forest*) deals with the units which compose the forest, with its character as an organic whole, and with its enemies. It may be said to sketch the foundation of the practice of forestry and of forest policy. Part II will be entitled *Practical Forestry* and will deal with the practice of forestry, with work in the woods, with the relations of the forest to the weather and the streams, and will conclude with a brief description of forestry at home and abroad." The little volume is profusely illustrated, and is of popular as well as of scientific interest.

In a third edition of *Monopolies and the People*, by Charles Whiting Baker (New York, G. P. Putnam's Sons, 1899. — 368 pp.), the author has added new material, primarily in Parts I and II. Part II attempts to give a sketch of the recent progress toward monopoly, but is very one-sided and fragmentary. Part III contains the suggestions for relief. Mr. Baker now abandons his former plans with reference to the railway problem, and puts forward a new scheme applicable both to transportation companies and to trusts — namely, the creation of government directors to sit on the boards. He naïvely thinks that they will be able to win the remainder of the board over to their point of view.

Two recent works on the condition of the working classes in England are those of W. Walker Stephens, *Higher Life for Working People* (London, Longmans, Green & Co., 1899. — 132 pp.), and Allen Clarke, *The Effects of the Factory System* (London, Grant Richards, 1899. — 178 pp.). Mr. Stephens is the author of the *Life and Writings of Turgot*. Although he displays commendable interest in the problems of the unemployed, of old-age annuities, of the eight-hour day and of the prevention of strikes, and although his spirit is praiseworthy, his equipment of economic knowledge is so slender as to make the book attractive only as an indication of good intentions. Mr. Clarke's volume is better worth reading, because the author, although now devoted to literary pursuits, was for a long time a factory hand himself, and experienced many of the sad effects of which he tells us.

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The book will, perhaps, serve as an antidote to some of the optimists who can find nothing to be improved in the factory system, as it at present exists; for it gives us, as is natural, only the dark side of the picture. The author nevertheless concedes, even though somewhat unwillingly, that a marked improvement has taken place during the last few decades. His little book is valuable, because it shows how much there still remains to be done before the present industrial system will become "a thing of joy and beauty."

That the method of simple observation may be profitably employed in the study of social conditions is demonstrated by two books which make no claim of scientific aim or value but, nevertheless, illustrate two ways in which the student may profit by such observation of the facts of the workingman's life. One of them, *The General Manager's Story*, by Herbert E. Hamblen (The Macmillan Co., 1898.— x, 311 pp.), tells of the Eastern railroad man — of the process by which he is "broken in" to his work, of the conditions of his advancement, of his dealings with employers, good and bad, of his part in strikes and of the "joys of tramping when out of work"; and tells the story as only a man who has been (and is yet) an engineer can tell it. It is the real workingman we see here, albeit he poses a bit at times. The other book, *The Heart of Toil*, by Octave Thanet (Scribner's, 1898. — x, 215 pp.), pictures the life of the skilled artisan of the Middle West. Through it we come to know certain aspects of the development of the growing boy, with his rude ideals of honor and of faith in "the Union," of the forceful qualities of the American workingman at what we may regard as his best, of the wholesome home life of some part of industrial America, and even of the "conscience of the [self-made] business man." Labor leaders and the labor vote, blacklists and boycotts, "scabs" and unionists — in short, living men in action inspired by genuine emotions and impulses may here be known and appreciated; for the author — a woman — seems to write with full knowledge, based on long and sympathetic observation of the essentials in this phase of American life. Without insisting too strongly upon the merits of these particular books, — and certainly without raising, even by implication, any consideration of other methods, such as that of Mr. Charles Booth, — we may call attention to the value of such partial, but true, pictures of what the student must try to understand — the wage-earner as a living man, with all the attributes of manhood. The social pathologist, who sees in his social system all the symptoms of every social ill he learns of in his reading, is too prominent. Studies of social health, and of the causes

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that lead to it, are in order. Professor Sumner's "forgotten man" and President Eliot's "forgotten millions" demand at least a part of our attention.

ANNOUNCEMENT.

The International Association for Comparative Jurisprudence and Economics (Berlin) offers the Hilse Prize of one thousand marks (foundation of Dr. Carl Hilse of Berlin) for the best work on the following subject: "The Legislation in regard to the Accident Liability of Railroads in the most Important Countries of Europe: its History and Economic Significance." (The situation in the United States of America may well be considered in connection with the above.)

The competition takes place under the following conditions:

1. Essays must be submitted before April 1st, 1901, to the first secretary of the Association, Kammergerichtsrat Dr. Kronecker, Berlin, W. Kurfürstendamm 241. 2. The essays must be written in German, French or English, and German manuscripts must be in Latin script. It is very desirable that the manuscripts should be typewritten. 3. The essays should not be signed with the name of the author, but should be marked with an inscription, and accompanied by a sealed envelope bearing the same inscription and containing the name and address of the author. 4. The committee of judges consists of the following members of the Association: Dr. Jur. T. M. C. Asser, Staatsrat, The Hague; Dr. Georg Eger, Regierungsrat, Berlin; Dr. William Hewins, Director of the London School of Economics and Political Science, London; Dr. Friedrich Meili, Professor of Law, Zurich.

The announcement of the award will be made, if possible, before April 1st, 1902. The amount of the prize may be divided between two or more essays, if these appear to be of essentially equal value. The prize essay may be published by the Association; but the publication of a work submitted, or of any part thereof, before the prize is awarded, excludes the work from the competition or from further consideration by the judges.

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